

TWENTY-THIRD DAY.

Senate Chamber,
Austin, Texas,

Wednesday, Feb. 16, 1927.

The Senate met at 10 o'clock a. m., pursuant to adjournment, and was called to order by Lieutenant Governor Barry Miller.

The roll was called, a quorum being present, the following Senators answering to their names:

Bailey.	Neal.
Berkeley.	Parr.
Bledsoe.	Pollard.
Bowers.	Price.
Fairchild.	Real.
Floyd.	Reid.
Greer.	Smith.
Hall.	Stuart.
Hardin.	Triplett.
Holbrook.	Ward.
Lewis.	Westbrook.
Love.	Wirtz.
McFarlane.	Witt.
Miller.	Wood.
Moore.	Woodward.

Absent—Excused.

Russek.

Prayer by the Chaplain.

Pending the reading of the Journal of yesterday, the same was dispensed with on motion of Senator Woodward.

Petitions and Memorials.

(See Appendix.)

Committee Reports.

(See Appendix.)

Bills and Resolutions.

By Senators Pollard, Witt, Miller and Greer:

S. B. No. 389, A bill to be entitled "An Act to create the office of State Servicer Officer, to be attached to the Comptroller's Department of the State of Texas; providing for his appointment; prescribing his qualifications and duties; fixing his salary; making appropriation for such, together with traveling and incidental expenses, for the fiscal year ending August 31, 1927; providing all matters and things incidental to the main purpose of this Act, and declaring an emergency."

Read first time and referred to Committee on Military Affairs.

By Senator Berkeley:

S. B. No. 390, A bill to be entitled "An Act to amend Chapter 1, Title 128, of Article 7596, Revised Civil Statutes of Texas, adopted at the Regular Session of the Thirty-ninth Legislature, to authorize conservation and reclamation districts co-operating under contract with the United States to waive the preference lien given them by statute, and declaring an emergency."

Read first time and referred to Committee on Civil Jurisprudence.

By Senator Berkeley:

S. B. No. 391, A bill to be entitled "An Act to amend Article 7752, Chapter 2, Title 128, of the Revised Civil Statutes of the State of Texas, adopted at the Regular Session of the Thirty-ninth Legislature, to authorize conservation and reclamation districts obtaining a water supply under contract with the United States, to waive the statutory lien given them, and declaring an emergency."

Read first time and referred to Committee on Civil Jurisprudence.

By Senator Parr:

S. B. No. 392, A bill to be entitled "An Act to amend Article 3900, of the Revised Civil Statutes of Texas, of 1925, relating to reports of fees required to be made by certain officers, so as to provide that sheriffs shall not be required to make report of fees as provided in Article 3897, 3898 and 3899, of said Revised Statutes of 1925, or to keep the statement provided for in Article 3896 of said Revised Statutes of 1925, in those counties having a population of fifty thousand inhabitants or less to be determined by the United States census of 1920, and repealing all laws in conflict herewith, and declaring an emergency."

Read first time and referred to Committee on State Affairs.

By Senator Bowers:

S. B. No. 393, A bill to be entitled "An Act abolishing the jury commissioner system as provided for in Articles 2104 to 2116, inclusive, 2094 and 2119 of the Revised Civil Statutes of 1925, and Articles 591, 592, 593, 594 and 595 of the Code of Criminal Procedure of 1925; repealing or amending such of said articles as necessary to accomplish said purpose, and providing for the jury

wheel system instead of the system provided for by said articles, and declaring an emergency."

Read first time and referred to Committee on Criminal Jurisprudence.

By Senator Love:

S. B. No. 394, A bill to be entitled "An Act to increase and fix the salary of the Superintendent of Public Instruction in all counties having 210,000 population or more according to the last preceding Federal census; providing for office expenses; repealing all laws and parts of laws in conflict herewith, and declaring an emergency."

Read first time and referred to Committee on Educational Affairs.

By Senator Love:

S. B. No. 395, A bill to be entitled "An Act to create a District Court of Dallas County, to be known as the Juvenile District Court of Dallas County, to define the jurisdiction thereof, fixing the salary of the judge of said court; providing for the appointment and election of the judge of said court hereby created; providing for the transfer of causes to said court; providing for the appointment of special judges and filling of vacancies in said offices; providing for the drawing of jurors for said court and for the exchange with other district judges, and declaring an emergency."

Read first time and referred to Committee on Civil Jurisprudence.

By Senator Pollard:

S. J. R. No. 26, A joint resolution "Proposing an amendment to the State Constitution authorizing local option elections to determine whether the county school superintendent shall be appointed by the county board of education."

Read first time and referred to Committee on Constitutional amendments.

By Senators Stuart and Woodward:

S. C. R. 19, A concurrent resolution "Providing for a committee of two members of the Senate and three members of the House to investigate and report back to the Legislature at the next session, whether general or special, in reference to the need of a department of dentistry of the University of Texas."

Read first time and ordered printed in the Journal.

By Senators Wood, Ward and McFarlane:

S. B. No. 396, A bill to be entitled "An Act to amend Article 189, Title 8, Revised Civil Statutes, 1925, and declaring an emergency."

Read first time and referred to Committee on Civil Jurisprudence.

By Senators Wood, Ward and McFarlane:

S. B. No. 397, A bill to be entitled "An Act to give the Supreme Court of Texas the power to make and establish all rules of civil procedure for the government of said court and the other courts of this State so as to expedite the dispatch of business therein, and to call to its assistance such judges and lawyers of the State as the Supreme Court may select to aid in formulating such rules and to repeal such statutes of practice and procedure as may be in force when such rules go into effect, and declaring an emergency."

Read first time and referred to Committee on Civil Jurisprudence.

By Senators Wood, Ward and McFarlane:

S. B. No. 398, A bill to be entitled "An Act to amend Article 816, Chapter 1, Title 39, Revised Civil Statutes, 1925, and declaring an emergency."

Read first time and referred to Committee on Civil Jurisprudence.

By Senators Wood, Ward and McFarlane:

S. B. No. 399, A bill to be entitled "An Act to amend Article 1738, Chapter 3, Title 37, Revised Civil Statutes, 1925, and declaring an emergency."

Read first time and referred to Committee on Civil Jurisprudence.

By Senator Witt:

S. B. No. 400, A bill to be entitled "An Act amending Articles 3170 and 3171, of the Revised Civil Statutes, 1925, etc., and declaring an emergency."

Read first time and referred to Committee on Privileges and Elections.

By Senators Wood, Ward and McFarlane:

S. B. No. 401, A bill to be entitled "An Act providing for district judges in this State to be assigned to other judicial districts and hold district court and attend to judicial business

therein so that the press of business and congested conditions therein may be relieved, etc., and declaring an emergency."

Read first time and referred to Committee on Judicial Districts.

By Senator Berkeley:

S. B. No. 402, A bill to be entitled "An Act to amend Article 5394, of the Revised Civil Statutes, 1925, so as to require the drilling of wells upon land awarded to the owner for development of mineral bearing deposits, etc., and declaring an emergency."

Read first time and referred to Committee on State Affairs.

Bills Signed.

After their captions had been read the Chair signed, in the presence of the Senate, the following bills:

H. C. R. No. 32.

H. B. No. 52.

Message From the Governor.

The Chair recognized the Door-keeper, who introduced a messenger from the Governor with the following message:

To the Honorable Fortieth Legislature of Texas:

Gentlemen: In a previous message to the Legislature I suggested that you ascertain the present financial status of the penitentiary and that you cause an inventory to be made of its property, based upon its present market value. I said that when this had been done the penitentiary should be placed upon a cash basis in so far as the revenues of the State will permit, so that the State may avoid the interest account incident to the obligations of the system, and to the end that the State will not have to suffer a loss by buying at high prices on a credit basis. The plan of buying upon credit wherever credit can be secured, and operating the system on a twelve months credit basis, I am informed by those in charge of the prison affairs has lost money for the State, because the method requires the State to pay high prices. At the present time the State is paying interest at the rate of six per cent on an indebtedness of more than \$700,000, even after the Brown-Crummer notes of \$750,000 were paid on February 1, 1927.

Some figures with reference to the financial condition of the penitentiary

at the close of the years 1924, 1925 and 1926 will undoubtedly impress your minds with the seriousness of the financial condition of the prison system. The figures which I shall quote are taken from the annual reports of the prison system, and from figures furnished by the Board of Prison Commissioners as to its present status.

The report of the Prison Commission on December 31, 1924, shows debts due by the system as follows:

First mortgage bonds..\$	100,000.00
Audited vouchers.....	91,276.38
Pay roll reserve.....	235.49
Reserve account	
for taxes.....	29,012.91
Due Transfer agent.....	1,178.29
Accounts payable.....	12,968.25
Land Notes.....	376,366.05
Brown-Crummer notes..	750,000.00
Current notes.....	111,345.20
Notes given prior	
to 1915.....	7,433.07

TOTAL.....\$1,479,815.64

Total (brought forward)	\$1,479,815.64
Cash on hand.....	289,642.27

Net indebtedness as of
December 31, 1924.....\$1,190,173.37

The report of the Prison Commission on December 31, 1925, shows an indebtedness as follows:

First mortgage bonds..\$	100,000.00
Audited vouchers.....	151,512.33
Reserve account	
for taxes.....	29,012.91
Due transfer agent.....	193.46
Accounts payable.....	12,733.52
Land Notes.....	310,366.05
Brown-Crummer notes..	750,000.00
Current notes.....	284,928.44
Notes given prior	
to 1915.....	7,433.07

TOTAL.....\$1,646,179.78

Cash on hand.....	210,241.82
Net indebtedness as of December 31, 1925.....	\$1,435,937.96

On December 31, 1926, the prison system owed debts as follows:

Land notes.....	323,716.95
Brown-Crummer notes..	750,000.00
Current notes.....	708,570.11
Notes given prior	
to 1915.....	7,433.07
Accounts payable.....	91,836.88
First mortgage bonds..	100,000.00

Reserve account for taxes.....	29,012.00
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TOTAL.....	\$2,010,569.01
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Reserve cash on hand..	170,154.06
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Net indebtedness as of December 31, 1926....	\$1,840,414.95
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Net indebtedness December 31, 1926....	\$1,840,414.95
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Net indebtedness December 31, 1924....	1,190,173.37
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Net losses in the bien- nium beginning Jan. 1, 1925, and ending Jan. 1, 1927.....	\$ 650,241.58
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Figures from statement furnished on February 15, 1927, show the condition of the indebtedness as follows:

Land notes.....	\$ 325,126.84
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Current notes.....	743,902.60
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Interest on current notes.....	12,429.53
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Accounts payable.....	43,475.40
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Other notes.....	16,080.82
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TOTAL.....	\$1,141,015.19
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First mortgage bonds..	100,000.00
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Reserve for taxes.....	29,012.91
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Notes given prior to 1915.....	7,433.07
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TOTAL.....	\$1,277,461.17
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Less cash on hand.....	140,731.26
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Present indebtedness of the prison system....	\$1,136,729.91
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It is noted that the last tabulation above does not include the audited vouchers outstanding, and those figures are not available as of February 15, 1927. Audited vouchers unpaid should be added to this indebtedness to show the total net indebtedness of the prison system at this time. On February 1, 1927 the Brown-Crummer indebtedness of \$750,000.00 was paid from appropriations out of the general revenue fund of the State. This reduced the indebtedness by the sum of \$750,000, plus the interest due at that time. On this indebtedness the State was paying interest at the rate of five per cent per annum. Except for the payment of the Brown-Crummer notes the present indebtedness would be approximately \$1,886,000.00.

I attach hereto a statement furnished by the Board of Prison Commissioners as to the debts of the sys-

tem. I want to call your especial attention to the tremendous number of notes which have been issued in settlement of invoices for goods purchased in the operation of the Texas prison system. These notes, as I understand, are given for supplies purchased through the year. I also want to call your attention to the fact that they all bear interest at the rate of six per cent per annum, with the exception of one item which bears eight per cent. At the present time the State is paying interest on more than \$700,000.00 at the rate of six per cent, and it occurs to my mind that six percent is a high rate for the State of Texas to have to pay on its obligations.

The Board of Prison Commissioners estimate that the amount of money necessary for the operation of the Texas prison system to September 1, 1927, is \$874,000.00. At the present time the system has in cash \$140,731.26. If this amount is deducted from the estimated needs of the system between now and September first it leaves the estimated needs at \$733,268.74.

It will be seen from the most cursory examination of the figures that the prison system was further in debt on January 1, 1926 than it was on January 1, 1925, and it will be observed that the system was further in debt on January 1, 1927, than it was on January 1, 1926. It is to be observed that it will take nearly two million dollars to place the system on a cash basis and keep it there from now until December 1, 1927. The obligations of the system are inherited by this administration, and it is a condition which is forced upon the present administration. I have no purpose or desire to seek to avoid this obligation or the responsibility of meeting and settling it. I have a suggestion to make to the Legislature with reference to this matter, and it is as follows:

That an appropriation be made to pay the outstanding debts of the prison system which are now due, or which mature between now and the first of September, 1927; that money be appropriated to meet the current operating expenses of the system between now and September first, and that this appropriation of the money be so worded that it will be available in monthly allotments on the first of each month to meet

the current monthly expenses of the system. For the future the Board of Prison Commissioners should be required to deposit all receipts from the operation of the State prison system in the State Treasury to the credit of the general revenue fund. The Prison Commission should then present a budget to the Legislature of the money needed for the operation of the prison system, and that money should be made available to them, but the receipts of the system should be deposited to the credit of the general fund. This will save the State in the future from paying interest at the rate of six per cent per annum on the obligations incurred in the management of the prison system, and make it possible for our prison supplies to be bought on a cash basis, and at the better price incident to purchasing in quantities for cash. The placing of the funds in the treasury will also make the funds subject to our general accounting system.

Certainly the Legislature will agree that the State of Texas should not be called upon to buy its supplies on credit and pay interest on three-fourths of a million dollars at the rate of six per cent per annum throughout the year.

The accounts of the prison system and its history over the past few years clearly demonstrate that fundamental evils exist in the organization. The cause of these losses cannot be attributed to a single thing, but there are likely a number of causes which have contributed to the present financial condition of the system. To state the amount of money which has been lost in the management of the system is sufficient to convince the ordinary mind that there are fundamental evils which must be reached and corrected before the State can expect its prison system to be placed upon a self-supporting basis. Men will with one accord agree that a prison system properly organized can be made self-sustaining, because of the fact that it uses only free labor.

The people of Texas are acquainted with the losses that the prison system has suffered and the amount of their tax money that has been taken to meet its obligations, and having knowledge of this condition, voted to amend the Constitution that remedial legislation might be passed, and

placed upon the Legislature the duty of carrying their expressed will into effect. There is but one conclusion which can be drawn from the adoption of the amendment, and that is that the people desire a comprehensive reorganization of the properties and management of our penal institution. The duty rests upon the Legislature to give a practical effect to the amendment adopted, and make those changes which are most likely to place our prison system on a self-supporting basis and relieve the people from paying deficits in the future.

The plain intent of the amendment is that a board shall be created to manage the affairs of the prison system. Experience has taught us that boards vested with plenary power concerning the matters trusted to their control have been efficient and economical in the administration of public affairs.

I wish to here reiterate what I said in a former message to the Legislature:

"I respectfully suggest that an act be passed providing for the creation of a prison board, fixing the number of members, the term of each member and prescribing the time of meeting. The commission should not be a salaried board, but its members should be paid their expenses and a nominal sum for the time spent in attending meetings and visiting the prison system. The executive office will be charged with the responsibility for the management of the prison system, and its affairs should not be entirely removed from the Governor's control. Therefore I suggest that the board, with the consent of the Governor, be given power to select a manager. The salary of the manager should be fixed by law at a sufficient sum to insure that an experienced and trained man could be secured for the position. The board should have power to remove the manager, and the members of the board should be subject to removal as other officers, by quo warranto proceedings. The board should further have authority to buy and sell real estate for the prison system with the consent of the Governor. Some provision should be made to change the system of keeping the funds of the penitentiary in various banks and making the State Treasury the depository for the funds of that in-

stitution, with authority in the manager to approve accounts for payment by the issuance of warrants by the Comptroller and payment by the Treasury, of a limited amount, without the consent of the board, but in any amount with the consent of the board. The manager should be required to report to the board and annually to the Governor. The manager, with the consent of the board, should have the power to prescribe reasonable rules and regulations governing the discipline of the prisoners, and he should have authority to employ and discharge other employees, with the consent and approval of the board."

I do not feel justified in calling upon the Legislature to appropriate

this enormous sum of money without at the same time calling their attention to the need for re-organization of the system to the end that in the future a Governor will not be forced to the embarrassment of asking the Legislature to appropriate money to meet the deficits of the State prison system. The condition is one which demands immediate relief, because delay involves losses to the people, and I respectfully suggest that this is a subject which not only deserves but demands serious consideration and prompt action on your part.

Respectfully submitted,

DAN MOODY,
Governor of Texas.

NOTES ISSUED IN SETTLEMENT OF INVOICES FOR GOODS PURCHASED IN THE OPERATION OF THE TEXAS PRISON SYSTEM.

To Whom Issued	When Due	Interest Rate Per Cent	Amount
Frank Cook	2-19-27	6	\$ 23,645.40
Schwartz Bros.	2-19-27	6	2,960.00
J. S. Bowser	2-19-27	6	22,585.00
Ross Bros.	2-19-27	6	6,108.50
Cook Bros.	2-19-27	6	4,075.00
Flaxman Dry Goods Co.	2-19-27	6	57,588.68
Houston Drug Co.	2-19-27	6	6,961.87
Rose Mfg. Co.,	2-19-27	6	20,089.75
Schumacher Co.	2-19-27	6	23,445.23
E. C. Palmer & Co.	2-19-27	6	4,818.18
G. A. Kelly Plow Co.	2-19-27	6	1,456.35
John Deere Plow Co.	2-19-27	6	2,333.20
Oliver Chilled Plow Co.	2-19-27	6	7,164.21
F. W. Heitmann Co.	2-19-27	6	2,796.74
Dittlinger Roller Mills	2-19-27	6	15,141.50
Black Hardware Co.	2-19-27	6	15,612.72
Galveston Dry Goods Co.	2-19-27	6	8,056.56
Southern Drug Co.	2-19-27	6	6,789.20
Wilder & Co.	2-19-27	6	9,064.82
Cement Grain Co.	2-19-27	6	17,137.30
The Murray Co.	2-19-27	6	2,572.03
Parke Davis & Co.	2-19-27	6	1,753.63
Standard Heel & Counter Co.	2-19-27	6	2,577.63
Pfister & Vogel Leather Co.	2-19-27	6	2,448.19
Surgical Selling Co.	2-19-27	6	831.57
Northrup and Clark	2-19-27	6	422.09
*Northrup and Clark	2-19-27	6	151.30
Norwich Pharmacal Co.	2-19-27	6	2,334.06
Defiance Iron Works	2-19-27	6	325.18
N. O. Nelson Mfg. Co.	2-19-27	6	833.83
Graham Paper Co.	2-19-27	6	174.50
Tobin Hamilton Leather Co.	2-19-27	6	7,808.40
Texas Photo Supply Co.	2-19-27	6	1,994.12
Rody Bros.	2-19-27	6	431.25
Moncrief Lenoir Mfg. Co.	2-19-27	6	1,032.07
Palestine Salt Co.	2-19-27	6	1,673.75
Peaslee Gaulbert Co.	2-19-27	6	2,195.81
International Harvester Co.	2-19-27	6	1,020.25
Houston Packing Co.	2-19-27	6	22,311.34

To Whom Issued	When Dus	Interest Rate Per Cent	Amount
Grantville Hosiery Mills	2-19-27	6	3,105.91
Houston Leon County Coal Co.	2-19-27	6	20,496.77
McKean-Eilers Co.	2-19-27	6	3,451.52
Kimbell Milling Co.	2-19-27	6	22,853.88
*Southwest General Electric Co.	11-1-26	6	69.99
E. R. Squibb & Sons	2-19-27	6	2,149.24
Straus Bodenheimer Co.	2-19-27	6	169.83
Mengden & Sons	2-19-27	6	3,318.58
*W. L. McAtee & Sons	11-1-26	6	826.91
Kuhn Paint & Varnish Co.	2-19-27	6	275.94
Kinsley Laboratories	2-19-27	6	255.00
Johnson & Johnson	2-19-27	6	2,603.96
Huntsville C/O Co.	2-19-27	6	85.70
Waller Grocery Co.	2-19-27	6	570.80
Duncan Coffee Co.	2-19-27	6	3,032.54
James Bute Co.	2-19-27	6	862.54
B. F. Avery & Sons	2-19-27	6	845.59
Wm. D. Cleveland & Sons	2-19-27	6	4,906.43
Dittlinger Lime Co.	2-19-27	6	1,848.60
Germaile Chemical Co.	2-19-27	6	454.80
Armour & Co.	2-19-27	6	63,867.55
**Pittman & Harrison	11-1-26	6	2,591.14
**Sherman Seed Co.	11-1-26	6	2,795.74
Sherman Seed Co.	2-19-27	6	1,856.56
Gulf Production Co.	2-19-27	6	2,060.49
Texas Co.	2-19-27	6	18,367.77
International Coffee Co.	2-19-27	6	18,953.75
Smith Bros. Grain Co.	2-19-27	6	3,740.83
The Anthony Mills	2-19-27	6	23,189.97
Morris & Co.	2-19-27	6	48,164.44
Bedford Tobacco Co.	2-19-27	6	6,099.46
*A. P. Cary Co.	11-1-26	6	301.96
Chipman Chemical Co.	2-19-27	6	358.03
Empire Electrical Supply Co.	2-19-27	6	48.59
Hamilton Iron Works	2-19-27	6	281.25
Underwood Typewriter Co.	2-19-27	6	180.64
Palestine Grain Co.	2-19-27	6	3,888.00
The Grand Leader Dry Goods Co.	2-19-27	6	203.35
Oliphint Motor Co.	2-19-27	6	2,786.00
Swift & Co.	2-19-27	6	16,981.15
*Continental Gin Co.	11-1-26	6	99.02
*Clark & Courts	11-1-26	6	68.96
Frederick Stearne Co.	2-19-27	6	135.00
*Jensen-Salsbury Laboratories	11-1-26	6	345.82
Jensen-Salsbury Laboratories	2-19-27	6	305.34
Standard Litho & P. Co.	2-19-27	6	389.00
The Gullett Gin Co.	2-19-27	6	338.86
I. O. Miller	2-19-27	6	7,038.28
Galveston Coal Co.	2-19-27	6	937.08
Primrose Petroleum Co.	2-19-27	6	242.38
South Texas Cotton Mills	2-19-27	6	11,788.84
U. S. Rubber Co.	2-19-27	6	143.76
John Lawrie & Sons	2-19-27	6	36.75
Ohio Grease Co.	2-19-27	6	71.69
Imperial Mercantile Co.	2-19-27	6	24,898.29
Sanger Bros.	2-19-27	6	3,639.68
*South Texas Imp. Co.	11-1-26	6	291.69
The Berger Mfg. Co.	2-19-27	6	1,507.69
General Chemical Co.	2-19-27	6	15,960.00
The R. B. George Machine Co.	2-19-27	6	1,285.62
Liggett & Myers Tobacco Co.	2-19-27	6	6,202.08
Fort Worth Elevators Co.	2-19-27	6	1,266.00

To Whom Issued	When Due	Interest Rate Per Cent	Amount
Boyton Lumber Co.	2-19-27	6	1,965.72
Texas Hotel Supply Co.	2-19-27	6	201.24
Ras Redwine	2-19-27	6	241.85
*Swift & Co.	11-1-26	6	1,215.90
Pierce Petroleum Co.	2-19-27	6	191.45
Seaport Bag Co.	2-19-27	6	560.00
Peden Iron & Steel Co.	2-19-27	6	31,968.09
Magnolia Petroleum Co.	2-19-27	6	24,985.84
Fairbanks Morse Co.	2-19-27	6	1,011.15
H. G. Hastings Co.	2-19-27	6	103.53
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			\$743,902.60

*Notes extended interest not paid.

**Notes held by bank. Interest paid to November 1, and from November 1, to February 19, 1927, and extended to February 19, 1927, but not renewed. Amount paid from November 1, 1926 to February 19, 1927, \$92.77—paid on November 27, 1926.

LIST OF ACCOUNTS DUE FEBRUARY 15, 1927, FOR GOODS PURCHASED IN THE OPERATION OF THE TEXAS PRISON SYSTEM.

Anders, Roy,	\$	107.26
American Disinfection Co.		360.00
American Laundry Mch. Co.		39.06
Atkins, E. C., & Co.		7.91
Angle Saxon Supply Co.		223.04
Avery & Sons Plow Co.		87.66
Baldwin Bros.		3.05
Black Hardware Co.		2,537.37
Bering Cortes Hardware Co.		35.65
Burton, A. C. & Co.		119.67
Baker, Chas F., & Co.		18.38
Briggs Weaver Machinery Co.		123.06
Bishop & Babcock Sales Co.		20.25
Brazos Valley Buick Co.		95.85
Barnhart Bros. & Spindler Co.		94.10
Cary, A. P. & Co.		57.30
Clark & Courts		25.30
Cline, A. L., & Co.		997.85
Cargill Co.		16.65
Carver Cotton Gin Co.		29.60
Denning, John L., & Co.		38.19
Enterprise Butchers Supply Co.		18.15
Fairbanks Morse & Co.		52.43
Fay, J. A., & Eagan Co.		14.64
Graham Paper Co.		74.63
Goldberg & Kaplan		9.46
Bullett Gin Co.		7.26
Graybar Electric Company		7.42
General Electric Co.		49.45
Gilliland Laboratories		45.25
Goodyear Tire & Rubber Co.		68.30
Globe Laboratories		1,092.92
Hall Lumber Co.		84.69
Heltmann Co.		283.12
Houston Packing Co.		16,105.91
Hibbard Spencer & Bartlett Co.		48.00
Houghton & Co.		19.75
Humble Oil & Refining Co.		180.45
Hartwell Iron Works		69.50
Huntsville Gin & Wharf Co.		386.32
Huntsville Oil Mill Co.		10.80

Houston Armature Works	77.23
Hirsch Cooperage Co.	717.50
Imperial Mercantile Co.	103.85
Jensen-Salsbury Co.	61.35
John Lawrie & Sons	45.82
Johns-Manville	23.40
Kuhn Paint and Varnish Works	58.10
Kuhn Paint Store	101.98
Kinsley Laboratories	200.00
Kelly, G. A., Plow Co.	5.18
Lynch Davidson & Co.	153.40
Lamkin Bros. Hardware Co.	28.90
Liggett & Myers Tobacco Co.	1,549.72
Magnolia Petroleum Co.	418.22
Magnolia Gas Products Co.	175.59
Myers, F. E., & Bros. Co.	7.31
McAltee & Sons	160.18
McClellan & Co.	8.27
Northrup & Clark	109.24
Nance, V. S., & Co.	3.85
Nelson, N. O., Mfg. Co.	502.01
Nicholson, Robt., Seed Co.	9.75
Norwich Pharmacal Co.	5.00
Oliphint Motor Co.	13.20
Oliver Chilled Plow Co.	716.75
Ohio Grease Co.	72.40
Oliphant, T. C.,	45.94
Oriental Textile Mills	12.13
Prest-O-Lite Co.	22.23
Palmolive Co.	44.00
Padgitt Brothers Co.	50.90
Progressive Products Co.	10.86
Pfister & Vogel Leather Co.	357.53
Pfister & Vogel Leather Co.	300.62
Peaslee-Gaulbert Co.	112.43
Pierce Petroleum Co.	75.05
Peden Iron & Steel Co.	390.62
Rock Creek Lumber Co.	2,145.43
Rathbun Co.	4.91
Steves Sash & Door Co.	155.58
Stancliff Well Screen Co.	35.45
Smith Newman Mfg. Co.	13.85
Spront & Waldon Mfg. Co.	66.66
Sherman Seed Co.	1,016.67
Schuhmacher Co.	3,119.23
Sugar Land Feed Co.	460.00
Southern Implement Supply Co.	124.76
Smithsonian Truss Co.	213.00
Silverberg Lumber Co.	864.83
Southwestern Paper Co.	9.49
Shell Dental Laboratories	39.85
Standard Heel & Counter Co.	306.79
Saint Louis Brownsville & Mex. Ry. Co.	1,116.10
Surgical Selling Co.	6.78
Texas Belting Co.	66.74
Texas Hotel Supply Co.	311.25
Tel-Electric Co.	144.54
Texas Co.	718.31
Tobin Hamilton Leather Co.	1,311.00
Underwood Typewriter Co.	38.00
United Shoe Machinery Corporation	18.29
Vacuum Oil Co.	83.51
Waller Gro. Co.	178.20

\$ 43,475.40

NOTES ISSUED IN SETTLEMENT OF INVOICES FOR MULES AND
LIGNITE PURCHASED, PAYABLE ON OR BEFORE Nov. 1, 1927.

	When Due	Interest Rate Per Cent	Amount
Houston Leon County Coal Co.	11-1-27	6	\$ 1,717.32
J. S. Bowser	11-1-27	6	5,210.00
Cook Brothers	11-1-27	6	5,930.00
C. B. Mule Team Co.	11-1-27	6	3,223.50
			<u>\$ 16,080.82</u>

LAND NOTES AND INTEREST COUPONS MATURED ON DECEMBER
21st, 31st, 1926, AND JANUARY 1st, 1927.

Land Notes that matured on Dec. 21st, 1926	\$ 428.55
Land Notes that matured on Dec. 31st, 1926	8,000.00
Land Notes that matured on Jan. 1st, 1927	53,000.00
Interest on land notes to date of maturity	14,151.95
Interest on land notes from maturity to Feb. 19, 1927	493.26
	<u>\$ 76,073.76</u>

P. S.—There will be an additional charge of \$115.58 should we be required to pay interest on the coupons that have matured.

RECAPITULATION.

Land notes which matured on Dec. 21st, 31, 1926, and Jan. 1st, 1927	\$ 61,428.55
Interest on Land notes to maturity	14,151.95
Interest on Land notes from maturity to Feb. 19th, 1927	493.26
Current notes payable prior to and on Feb. 19th, 1927	743,902.60
Interest on current notes to Feb. 19th, 1927	12,429.53
Bills payable	43,475.40
Total amount due on or before Feb. 19, 1927	<u>\$875,881.29</u>
Notes issued in settlement for mules and Lignite pur- chased, payable Nov. 1st, 1927	16,080.82
	<u>\$891,962.11</u>
Estimated amount required to operate the System to Sep. 1st, 1927, \$874,000.00 based on an average of expendi- tures for this period during the year of 1926. This esti- mate is based on the theory that there will be as many inmates during the 1927, period as there was during the same period in 1926, eliminating all extra or emergency expenses.	
Estimated amount required for operation of the Texas Prison System to Sept. 1st, 1927	\$874,000.00
Less cash on hand	140,731.26
	<u>\$733,268.74</u>

Executive Office,
February 16, 1927.

TO THE HONORABLE SENATE OF THE STATE OF TEXAS.
Gentlemen:

I have this day approved Senate Bill No. 28, amending Article 198,
Revised Civil Statutes of Texas, 1925, except the following items:

Salaries of:

Three judges	\$ 7,500.00
Clerk	1,500.00

Stenographer	750.00
Porter	300.00
Record books, stationery, ice, telegraph, express, postage, box rent and contingent expenses	200.00
One typewriter	100.00

\$10,350.00"

"Salaries of:

	For years ending	
	Aug. 31, 1928	Aug. 31, 1929.
Three judges	\$15,000.00	\$15,000.00
Clerk	3,000.00	3,000.00
Deputy Clerk	1,500.00	1,500.00
Stenographer	1,500.00	1,500.00
Bailiff	100.00	100.00
Porter	600.00	600.00
Record books, stationery, ice, telegraph, express, postage, box rent, and contin- gent expenses	600.00	600.00
Typewriters	200.00	100.00
Fuel and lights	300.00	300.00
	\$22,800.00	\$22,700.00"

These items are not approved for the following reasons: first, that they should be included in the emergency and general appropriation bills; and second, because these subjects are not incorporated in the caption of the bill; and third, there is no necessity for the item of appropriation to be included in the statutes, but can be taken care of properly in the appropriation bill.

Respectfully submitted,
DAN MOODY,
Governor of Texas.

Executive Office, Feb. 16, 1927.
To the Fortieth Legislature of the
State of Texas,

Gentlemen: During the present session of the Legislature, a number of bills have been passed creating additional courts. I have approved all bills establishing district courts and county courts. It was apparent that each was necessary because of the litigation in the several districts and counties affected. There is now before me a bill which has been passed by both Houses creating another Court of Civil Appeals.

When the number of cases pending the several Courts of Civil Appeals are considered in connection with the number of opinions written by these courts, it appears that there are a sufficient number of Courts of Civil Appeals to dispose of all pending cases. However, I recognize that certain other conditions are to be considered in passing upon this bill for approval or veto.

First, the tremendous development in the western portion of the State has increased litigation in that

section to such an extent that the present division of territory among the several supreme judicial districts of the State brings more cases to some of the existing Courts of Civil Appeals than can be disposed of by members of those courts.

Second, there are certain thickly populated sections of the State in which the litigation is so heavy that adequate facilities do not exist for the speedy termination of appealed cases. More cases are filed in the Courts of Civil Appeals at Dallas, Fort Worth and Galveston than can be promptly determined by the Courts of Civil Appeals of those districts. The average number of cases filed in each of these courts over the past two years is as follows:

Galveston, 145; Fort Worth, 250; and Dallas, 243.

This condition makes it necessary for cases to be transferred from one court to another with the result that frequently cases are sent from one Court of Civil Appeals to another so far from the county in which the case originated that the expense pro-

hibits the litigant from sending counsel to argue the case.

Texas is a rapidly developing State. We hope that its growth and development will continue; and as it continues and the population of the State increases, litigation will multiply, and in time a necessity for additional courts will follow.

Some people think that such a condition now exists, and strong arguments have been advanced for the approval of the bill before me. There is justice in the complaint of lawyers and litigants that the transfer of cases from the Court of Civil Appeals for the Second District to some distant Court of Civil Appeals in order to get the case reached works an injustice upon both the lawyer and litigant, which frequently amounts probably to a denial of justice. It is equally true that there is merit in the claim that delays in litigation incident to crowded and congested dockets work a hardship on litigants, which frequently amounts to a denial of relief by the courts.

Relief from these conditions should be secured and I believe can be accomplished without creating additional courts for the present.

I suggest four things, which I believe will afford the relief desired.

First: the terms of the Courts of Civil Appeals should be changed so that the terms shall last throughout the year, and allow the judges of the courts a vacation of eight weeks during each year, at a time to be determined upon by the members of the courts. At the present time there are three months during the year when our appellate courts are closed to the citizenship and frequently rights involved in injunction matters and cases of that nature are seriously affected because the matter cannot be presented to the appellate court. There may not be any need to have the courts open throughout the year, but if the need exists, it is an urgent one and the measure which I suggest would make it possible to reach the courts, when now they cannot be reached.

Second: Provide that when equalizing the dockets, if it appear necessary to transfer cases from one court to another court, that the court to which the cases are transferred shall hear arguments in such

cases at the court from which they are transferred.

I realize that a provision of the Constitution may be urged as an objection to this measure, but I take it that the bill can be so worded that no valid constitutional objection can be offered, and that the courts will sit for the decision of the cases within their several judicial districts, but hear the argument at the situs of the court from which the cases are transferred.

It is more equitable to require three judges to travel two hundred miles to hear ten cases argued than it is to require thirty lawyers to travel that distance to argue these cases upon transfer. It would be more economical to the people of the State who have business in the courts. In the Federal system the circuit court will go to a certain place to hear arguments, but most usually their decisions are announced and handed down at one particular place.

Third: Redistrict the State to reduce the number of counties in the districts now having an excess of business and increase the number of counties in which the courts are not so crowded.

Fourth: Create a number of administrative judicial districts in this State with power in some judge as presiding judge to assign judges from one district to another for the relief of congested dockets. This measure should apply only to district courts.

I have prepared and attached to this message bills which I believe will cover the above suggestions.

There is a fifth measure which I suggest. The Constitution provides that the appellate jurisdiction of the Supreme Court shall extend to questions of law arising in cases of which the Courts of Civil Appeals have appellate jurisdiction, under such restrictions and regulations as may be imposed by law. This provision of the Constitution could no doubt be urged effectively against any attempt to make certain cases appealable direct from the district court to the Supreme Court, and I do not believe that the statute providing for such a procedure would be valid under our Constitution. However, I believe that it would be competent for the Legislature to pass a measure requiring the Courts of Civil Appeals to Certify direct to the Su-

preme Court those cases and questions which under the existing law it is apparent will be taken to the Supreme Court. Such a measure should provide that when the Supreme Court had certified its answer to the Court of Civil Appeals, that the Court of Civil Appeals should then enter judgment or make its decision in accordance with such answer of the Supreme Court. This would be in effect the same procedure as exists in the federal system, where certain questions are appealable direct from the district court to the Supreme Court. It might be argued that it is possible to accomplish what is suggested under existing laws; that may be true, but if it is true, the practice has not been followed as much as it would be if the law so directed. A case in which a district court has held an act of the Legislature void can be taken to the Supreme Court. Why should not the question of the validity of the act be certified at once and the decision of the Supreme Court obtained without the necessity of a motion or argument or decision in a Court of Civil Appeals.

If the power to make rules of practice and procedure is ever vested in the Supreme Court and a judicial counsel so that these rules can be simplified, and the rules with reference to record on appeal changed so that a simplified record can be trusted to take the case before the appellate court, the amount of work which the appellate courts have to do will be so reduced that the existing courts will be sufficient to dispose of the appeals in this State. The power to make rules in equity cases in the federal system has been trusted to the Supreme Court of the United States, and it seems to me that we would do well to trust our practice and procedure to the courts. Authority exists in the Constitution for such an action. They could be simplified considerably. Attached to this message is a bill, which, under Section 25 of Article 5 of the Constitution, will, if enacted, place the power to make rules of practice and procedure in the Supreme Court and a judicial counsel.

The district affected by the bill you have passed is entitled to relief. The Court of Civil Appeals for the Second District cannot possibly dispose of all of its cases. It is

humanly impossible for three men to do the work. The complaint against the system of transfers is meritorious. If I veto the bill before me the district may not get the relief to which it is entitled. I had determined in my mind to veto this measure, but I have concluded to take that action which will insure relief against all contingencies, and I am endeavoring to offer to you a program which will afford the relief desired and at the same time save the expense of another court. I hope that you can agree with me and pass these bills. If you can, the relief will be given and the Act creating a new Court of Civil Appeals will be repealed. If you will pass the redistricting bill suggested, the number of cases going to each Court of Civil Appeals will be within what can be disposed of by the existing Court of Civil Appeals. It would then be unnecessary to create a Twelfth Court of Civil Appeals. The redistricting bill would have the effect to repeal the bill passed creating the Twelfth Court of Civil Appeals. If I should veto this bill, the result might be to leave conditions exactly as they are. I am undertaking to guarantee against that situation by approving a bill except for appropriations, and then offering to you as a substitute that which will make the court unnecessary but give all the relief that anyone living in the territory could claim himself entitled to receive.

Very respectfully,

DAN MOODY,
Governor of Texas.

A BILL

To Be Entitled

An Act to amend Article 816, Chapter 1, Title 39, Revised Civil Statutes of 1925.

Be it enacted by the Legislature of the State of Texas:

Section 1. That Article 816, Chapter 1, Title 39, Revised Civil Statutes of 1925 be amended so that same shall hereafter read as follows, to-wit:

Article 816. Terms of Court. The term of each Court of Civil Appeals of the State of Texas shall begin on the first Monday in October of each year and shall continue in session until the first Monday in October of the next succeeding year; provided, that the presiding judge

and associate justices of said Courts of Civil Appeals shall each be permitted to take a vacation of eight weeks during each year, which shall be at a time to be determined upon by the presiding judge and associate justices of each of the several Courts of Civil Appeals.

A BILL
To Be Entitled

An Act to amend Article 1738, Chapter 3, Title 37, Revised Civil Statutes of 1925.

Be it enacted by the Legislature of the State of Texas:

Section 1. That Article 1738, Chapter 3, Title 37, Revised Civil Statutes of 1925, be amended so as to hereafter read as follows, to-wit:

Article 1738. Transfer of Cases. The Supreme Court shall on the fifteenth day of June and the fifteenth day of December of each year equalize, as nearly as practicable, the amount of business upon the dockets of the several courts of civil appeals by directing the transfer of cases from such of said courts as may have the greater amount of business upon their dockets to those having a less amount of business. And the Courts of Civil Appeals to which such cases shall be transferred shall have jurisdiction over all such cases so transferred, without regard to the district in which the cases were originally tried and returnable upon appeal. Cases transferred from any court of civil appeals shall be taken from the cases appealed from the counties nearest the place where the court to which the cases are transferred is held. Provided, that when an order is made by the Supreme Court in equalizing the dockets of the several courts of civil appeals directing the transfer of cases from one court of civil appeals to another court of civil appeals, the chief justice and associate justices of the Court of Civil Appeals to which cases are transferred shall notify the clerk of the court of Civil Appeals from which the cases have been transferred of the time when said Court of Civil Appeals, to which said cases have been transferred, will come to the court from which the cases are transferred for the purpose of receiving such cases and hearing arguments in the several cases so transferred. Upon receiving such notice from the court to which cases are

transferred, the Court of Civil Appeals from which such cases have been ordered transferred shall set the cases so transferred for argument, and cause the clerk to notify the attorneys for the several parties at interest in each of said cases as to the time said cases have been set for argument. The Court of Civil Appeals to which the cases are ordered transferred shall be given notice of the setting of said cases, and it shall be its duty to appear at the court from which the cases are transferred and there receive the records in such cases and give the interested parties an opportunity to present oral argument. But the opinions and decisions in such cases so transferred shall be delivered by such court to which the same have been transferred at the place where such court regularly sits, as is provided by law. The actual and necessary expenses of the Judges of the Courts of Civil Appeals in going to receive such cases and hear arguments in the cases transferred shall be borne by the State, and the Legislature shall make appropriation for payment of such expenses.

A BILL
To Be Entitled

An Act to amend Article 198, Title 8, Revised Civil Statutes of 1925.

Be it enacted by the Legislature of the State of Texas:

That Article 198, Title 8, Revised Civil Statutes of 1925 be amended so that it shall hereafter read as follows, to-wit:

Article 198. This State shall be divided into eleven Supreme Judicial Districts composed of the following named counties for the purpose of constituting and organizing a Court of Civil Appeals in each of the several Supreme Judicial Districts as follows, to-wit:

First: Trinity, Walker, Madison, Grimes, Burleson, Washington, Waller, Harris, Chambers, Austin, Colorado, Lavaca, De Witt, Jackson, Matagorda, Wharton, Brazoria, Fort Bend, Galveston, Calhoun, Nueces, Refugio, Aransas, San Patricio.

Second: Wichita, Clay, Montague, Wise, Tarrant, Cooke, Denton.

Third: Frestone, Anderson, Leon, Robertson, Milam, Lee, Bastrop, Caldwell, Hays, Travis, Williamson, Bell, Burnet, Blanco, Llano, San Saba, Lampasas, Mills, McCulloch,

Brown, Falls, Coleman, Runnels, Tom Green, Concho, Gonzales, Guadalupe, Comal, Gillespie, Mason, Houston, Fayette and Brazos.

Fourth: Val Verde, Sutton, Edwards, Kinney, Maverick, Menard, Kimble, Kerr, Bandera, Uvalde, Zavalla, Dimmit, Webb, La Salle, Frio, Medina, Duval, McMullen, Atascosa, Bexar, Kendall, Wilson, Live Oak, Zapata, Bee, Karnes, Victoria, Goliad, Hidalgo, Cameron, Starr, Jim Hogg, Real, Brooks, Jim Wells, Kleberg, Kenedy, Willacy.

Fifth: Grayson, Collin, Dallas, Rockwall.

Sixth: Fannin, Lamar, Red River, Bowie, Delta, Hopkins, Franklin, Titus, Morris, Cass, Raines, Wood, Upshur, Marion, Harrison, Gregg, Smith, Cherokee, Rusk, Panola, Camp, Hunt, Van Zandt.

Seventh: Dallam, Sherman, Hansford, Ochiltree, Lipscomb, Hartley, Moore, Hutchinson, Roberts, Hemphill, Oldham, Potter, Carson, Gray, Wheeler, Deaf Smith, Randall, Armstrong, Donley, Collingsworth, Parmer, Castro, Swisher, Brisco, Hall, Childress, Bailey, Lamb, Hale, Floyd, Motley, Cottle, Foard, Hardeman, Wilbarger, Crosby, Lubbock, Hockley, Cochran, Yoakum, Terry, Lynn, Garza, Dickens, Kent, King.

Eighth: Dawson, Borden, Howard, Sterling, Coke, Irion, Schleicher, Crockett, Gaines, Andrews, Martin, Loving, Winkler, Midland, Glasscock, Reeves, Ward, Crane, Upton, Reagan, Terrell, Pecos, Brewster, Presidio, Jeff Davis, El Paso, Ector, Culberson, Hudspeth.

Ninth: Shelby, Nacogdoches, Angelina, San Jacinto, Montgomery, Liberty, Jefferson, Orange, Hardin, Newton, Jasper, Tyler, Polk, Sabine, San Augustine.

Tenth: McLennan, Coryell, Hamilton, Bosque, Hill, Navarro, Henderson, Ellis, Johnson, Somervell, Hood, Kaufman, Limestone.

Eleventh: Mitchell, Scurry, Nolan, Fisher, Stonewall, Taylor, Jones, Haskell, Knox, Callahan, Shackelford, Throckmorton, Baylor, Comanche, Eastland, Stephens, Young, Erath, Palo Pinto, Jack, Parker, Archer.

A BILL

To Be Entitled

Be it enacted by the Legislature of the State of Texas:

Section 1. The State of Texas is hereby divided into nine Administrative Judicial Districts, which districts shall be numbered and composed of counties as follows:

First: Bowie, Red River, Lamar, Fannin, Grayson, Collin, Hunt, Delta, Hopkins, Franklin, Titus, Morris, Camp, Cass, Marion, Harrison, Gregg, Upshur, Wood, Raines, Kaufman, Van Zandt, Dallas, Ellis, Henderson, Anderson, Houston, Cherokee, Nacogdoches, Angelina, Panola, Shelby, Smith, Rusk.

Second: San Augustine, Sabine, Jasper, Newton, Orange, Jefferson, Tyler, Hardin, Liberty, Chambers, Galveston, Harris, Brazoria, Matagorda, Wharton, Fort Bend, Waller, Montgomery, San Jacinto, Polk, Walker, Trinity, Grimes, Madison, Leon, Brazos, Freestone, Limestone, Burleson, Washington, Bastrop, Robertson, Lee.

Third: Johnson, Somervell, Bosque, Hill, Navarro, McLennan, Falls, Milam, Williamson, Travis, Austin, Fayette, Caldwell, Comal, Hays, Colorado, Lavaca, Gonzales, Guadalupe, Blanco, Burnet, San Saba, Llano, Gillespie, Mason, Kimble, Menard, Bell, Lampasas, Mills, Coryell, Hamilton, Comanche.

Fourth: Jackson, Calhoun, Aransas, Refugio, San Patricio, Bee, Live Oak, McMullen, Goliad, Victoria, Dewitt, Karnes, Wilson, Atascosa, Frio, LaSalle, Dimmit, Webb, Zapata, Jim Hogg, Bexar.

Fifth: Nueces, Kleburg, Kenedy, Jim Wells, Duval, Brooks, Starr, Hidalgo, Willacy, Cameron.

Sixth: Maverick, Kinney, Edwards, Val Verde, Terrell, Kerr, Kendall, Bandera, Real, Medina, Uvalde, Zavalla, Sutton, Crockett, Pecos, Brewster, Jeff Davis, Presidio, Culberson, Hudspeth, El Paso, Upton, Reagan.

Seventh: Yoakum, Terry, Lynn, Garza, Gaines, Dawson, Andrews, Martin, Loving, Winkler, Ector, Midland, Glasscock, Reeves, Ward, Crane, Sterling, Coke, Irion, Tom Green, Schleicher, Borden, Scurry, Howard, Mitchell, Nolan, Taylor, Callahan, Shackelford, Throckmorton, Haskell, Jones, Fisher, Stonewall, Kent, Runnels, Coleman, Brown, McCulloch, Concho.

Eighth: Cooke, Denton, Montague, Clay, Wichita, Archer, Jack, Wise, Young, Stephens, Eastland, Erath, Hood, Palo Pinto, Parker, Tarrant.

Ninth: Wilbarger, Baylor, Knox, King, Dickens, Motley, Cottle, Crosby, Lubbock, Hockley, Cochran, Bailey, Lamb, Hale, Floyd, Castro, Swisher, Briscoe, Parmer, Deaf Smith, Oldham, Hartley, Dallam, Sherman, Moore, Potter, Randall, Armstrong, Handsford, Ochiltree, Lipscomb, Hutchinson, Roberts, Hemphill, Carson, Gray, Wheeler, Donley, Collingsworth, Hall, Childress, Hardeman, Foard.

Section 2. Immediately after this Act becomes effective it shall be the duty of the Governor, with the advice and consent of the Senate, to designate one of the regularly elected and commissioned district judges of each of said districts as Presiding Judge of the Administrative Judicial District. Upon the death, resignation, or the expiration of the term of office of such Presiding Judge, the Governor shall thereafter immediately designate a new Presiding Judge of the Administrative District, as in the first instance.

Section 3. The clerk of the district court of the district from which the judge has been designated as the Presiding Judge of the Administrative District, in addition to his regular duties as clerk of the district court, shall perform the duties of clerk of the Administrative District.

Section 4. It shall be the duty of the Presiding Judge of such Administrative District once each year to call a regular conference, and at such times as be necessary, a special conference, of the several district judges of the several judicial districts composing the Administrative District, at a time and place to be designated by the Presiding Judge, for consultation and counsel as to the state of business, civil and criminal, in the several district courts of the Administrative District, and to arrange for the disposition of the business pending on the dockets of the several district courts of the District. At the time of such consultation, or at any time thereafter, with or without an additional meeting of the judges, it shall be the duty of the Presiding Judge, from time to time, to assign any of the judges of the Administrative District to hold

special or regular terms of court in any county of the Administrative District in order to try and dispose of accumulated business, under such rules as may be prescribed by the session, or sessions, of the district judges of the Administrative District. Such meeting or council of judges shall have the power to prescribe rules regulating and facilitating the order of trials, the keeping of records in the various counties of the district where judges are sent from one district into another to facilitate the disposition of cases, and to make such other rules and regulations as may be necessary to carry this Act into practical operation. When it is deemed necessary, the Presiding Judge of the Administrative District may call special or additional meetings of the conference of judges during the year. The district judges shall lay before each conference of judges a list of all cases pending, and the exact status of their dockets, together with such other information as may be required by the rules and regulations of the conference.

Section 5. Judges may be assigned in the manner herein provided for the holding of district court when the regular judge thereof is absent or is from any cause disabled or disqualified from presiding, and instances where the regular district judge is present or himself trying cases where authorized or permitted by the Constitution and laws of the State.

Section 6. It shall be the duty of any district judge of any district within the administrative district to extend the regular terms of his court, and to call special terms, when necessary to carry out the purposes of this Act and dispose of pending litigation. The Presiding Judge of one Administrative District may call upon the Presiding Judge of another Administrative District to furnish judges to aid in the disposition of litigation pending in any judicial district within the Administrative District in which such judge so making the request has been designated as the Presiding Judge. For the trial of cases and the entry of orders and the disposition of other business necessary, the judge of any district in this State, or any district judge sent to any district in this State by the Presiding Judge of an

Administrative District, shall have power, by entering an order on the minutes, to convene a special term of the court for the disposition of the business coming before the district court.

Section 7. The district clerk performing the duties of clerk for the Administrative District shall conduct the correspondence for the Presiding Judge of the Administrative District, keep a record of all its proceedings, and a complete and accurate record of all cases pending in the several courts of the Administrative District, the time of their filing the style and purpose of the causes, and their final disposition, and such other matters as may be prescribed by the council of judges herein referred to. For such purposes he is authorized, with the approval of the Presiding Judge, to purchase the necessary office equipment, stamps, stationery and supplies, and to employ one additional deputy clerk, under the direction of the council of judges or such rules as they may promulgate. Such cost shall be divided pro rata among the counties and paid by the counties on the certificate of the Presiding Judge. He shall, under the direction of the Presiding Judge of the Administrative District, make an annual report, and such special reports as may be directed by the Presiding Judge of the District, to the Attorney General. Such reports shall be there filed and open to public inspection, and shall be condensed and tabulated in the biennial reports of the Attorney General.

Sec. 8. The Presiding Judge of the Administrative District, in addition to all other compensation allowed him by law, shall receive the sum of \$1,200.00 per year, payable in equal monthly installments; and the clerk who performs the duties of Clerk of the Administrative District shall, in addition to all other fees and compensation allowed him by law, receive the sum of \$600.00 per year, payable in equal monthly installments. Such sums shall be paid pro rata by the counties of the Administrative District on the certificate of the Presiding Judge.

Sec. 9. The several District Judges of the District when required to attend the annual or special sessions of the Judges herein prescribed, shall, in addition to all

other compensation allowed them by law, receive their actual traveling expenses going to and returning from the place of meeting, and their actual expenses while in attendance on the meeting.

Sec. 10. All of the aforesaid salaries, compensation and expenses, and all other expenses authorized and incurred herein for the purpose of administering this law, shall be paid in equal proportions by the several counties composing the Administrative District, out of the general funds of said counties. Said salaries, compensation, expenses, and expenditures herein authorized are to be paid on certificates of approval of the Presiding Judge of the Administrative District.

Sec. 11. When the district judges are assigned under the provisions of this Act to districts other than their own district, and out of their own counties, they shall, in addition to all other compensation permitted or authorized by law, receive their actual expenses in going to and returning from their several assignments, and their actual living expenses while in the performance of their duties under assignments, which expenses shall be paid out of the general fund of the county in which their duties under assignments are performed, upon accounts certified and approved by the Presiding Judge of the Administrative District.

If any part of the foregoing Act shall be held to contravene the Constitution of this State, then the entire Act shall not fall by reason thereof, but the remaining portion of said Act shall remain valid and enforceable.

Section 12. The fact that there are now so many cases pending on the dockets of the several district courts of this State which cannot be reached because of the press of business, and the fact that there are other district judges whose time is not all taken, creates an emergency and an imperative public necessity requiring the suspension of the constitutional rule requiring bills to be read upon three several days in each House, and the said rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

A BILL
To Be Entitled

An Act to give the Supreme Court of Texas the power to make and establish all rules of civil procedure for the government of said court and the other courts of this State, so as to expedite the dispatch of business therein, and to call to its assistance such judges and lawyers of the State as the Supreme Court may select to aid in formulating such rules, and to repeal such statutes of practice and procedure as may be in force when such rules go into effect.

Be it enacted by the Legislature of the State of Texas:

Section 1. On and after the 31st day of December, A. D. 1927, the following articles of the Revised Civil Statutes of the State of Texas shall be, and are hereby, abrogated and repealed: Articles 1971 to 2328, both included; Articles 1837 to 1883, both included; and Articles 1729 to 1780, both included.

Section 2. On and after the 31st day of December, A. D. 1927, all civil procedure shall be in accordance with the rules of procedure for civil cases promulgated by the Supreme Court of this State in accordance with the terms of this Act and such amendments thereof as may thereafter be made.

Section 3. It shall be the duty of the Supreme Court of this State, with the aid of the council hereinafter created, between the dates when this Act becomes effective and December 31, 1927, to prescribe all rules of procedure in civil cases for the government of all courts of this State having jurisdiction of civil cases, except forfeitures of recognizances and bail bonds in criminal cases.

Section 4. To aid the Supreme Court in accomplishing the purpose of this Act, the Court is directed to appoint a council of lawyers and judges composed of one representative from the several courts of civil appeals of Texas, two representatives from the several district courts of Texas, and eight practicing lawyers who for the past ten years have been actively engaged in the practice of law, to study the subject of procedure in civil cases in this State and act with the Supreme Court in adopting the rules of procedure in civil cases. The rules shall be

adopted upon a majority vote of the Supreme Court and the council herein provided for.

Section 5. The members of the judicial council so appointed by the Supreme Court shall receive their actual expenses in going to and from the City of Austin in the performance of their duties hereunder and their actual expenses while in the city of Austin, but no other compensation.

Section 6. The rules of procedure to be so prescribed shall be directory, except where otherwise provided in the rules.

Section 7. It shall be the duty of the Secretary of State to cause rules so adopted to be published as the session acts of the Legislature are now published, and they shall be distributed as such session acts are now distributed to public officers entitled thereto, and they shall be sold to the public at the price now fixed for the sale of the session acts of the Legislature.

Senate Joint Resolution No. 14.

The Chair laid before the Senate, on the calendar, the following resolution on third reading:

S. J. R. No. 14, A joint resolution "Proposing to amend Sections 2, 4, 6, 7, 9, 15, 18, 20, 21 and 2, Article V, Constitution of Texas."

The resolution was read third time.

Senator Wood sent up the following amendment:

Amendment No. 1 to S. J. R. No. 14.

Amend Senate Joint Resolution No. 14 by striking out of said resolution all of Sections 1, 2, 3, and 4.

The amendment was read and adopted by unanimous consent.

Senator Wood sent up the following amendment:

Amendment No. 2 to S. J. R. No. 14.

Amend Senate Joint Resolution No. 14 by striking out of lines 7 and 10 the following: 2, 4, 6, and 7.

The amendment was read and adopted by unanimous consent.

The resolution was finally passed by the following vote:

Yeas—23.

Berkeley.
Bledsoe.

Bowers.
Fairchild.

Floyd.	Price.
Greer.	Reid.
Hall.	Smith.
Hardin.	Stuart.
Lewis.	Triplett.
Love.	Ward.
Moore.	Westbrook.
Neal.	Wood.
Parr.	Woodward.
Pollard.	

Nays—5.

Bailey.	Miller.
Holbrook.	Wirtz.
McFarlane.	

Absent—Excused.

Witt.

Absent.

Real. Russek.

Senate Joint Resolution No. 24.

The Chair laid before the Senate, on the calendar, S. J. R. No. 24.

On the motion of Senator Wood it was laid on the table subject to call.

House Concurrent Resolution No. 2.

The Chair laid before the Senate, on the calendar, the following resolution:

H. C. R. No. 2, A concurrent resolution "Memorializing the Congress of the United States to enact agricultural legislation for the purpose of conserving agricultural industry, etc."

The resolution was read and adopted.

House Bill No. 57.

Senator Bailey called from the table the following bill:

H. B. No. 57, A bill to be entitled "An Act to amend Articles 2238, 2239, and 2240 of the Revised Civil Statutes of Texas for 1925."

Senator Bailey sent up the following amendment:

Amend the bill and caption thereof by striking out the words "ten days" wherever they occur and inserting in lieu thereof the words "twenty days."

The amendment was read and adopted by unanimous consent.

The bill was finally passed by the following vote:

Yeas—27.

Bailey.	Pollard.
Berkeley.	Price.
Bledsoe.	Real.
Bowers.	Reid.
Hall.	Smith.
Hardin.	Stuart.
Holbrook.	Triplett.
Lewis.	Ward.
Love.	Westbrook.
McFarlane.	Wirtz.
Miller.	Witt.
Moore.	Wood.
Neal.	Woodward.
Parr.	

Absent.

Fairchild. Greer.
Floyd.

Absent—Excused.

Russek.

Motion to Print.

Senator Wood moved to print S. B. No. 261 on the favorable minority report.

Recess.

On the motion of Senator Bowers, the Senate at 12:00 p. m. recessed until this afternoon at 2:00 p. m.

After Recess.

The Senate was called to order at 2 o'clock p. m. after recess by Lieutenant-Governor Barry Miller.

The question recurred upon the motion of Senator Wood that S. B. No. 261 be printed on the favorable minority report. The motion was adopted.

C. I. A. Report.

The Chair laid before the Senate the following communication:

College of Industrial Arts,
Denton, Texas.

February 12, 1927.

To the Governor of the State of Texas, and

To the members of the Fortieth Legislature:

I hand you herewith a copy of the biennial report of the College of Industrial Arts covering the fiscal years ending August 31, 1925 and August 31, 1926, respectively.

Yours very truly,

L. H. HUBBARD, President.

The report was referred to the Committee on Finance.

House Bill No. 29.

The Chair laid before the Senate, on second reading, the following bill:

H. B. No. 29, A bill to be entitled "An Act to Amend Article 1903 of Chapter 2, Title 40, of the Revised Civil Statutes of 1925, and declaring an emergency."

The bill was read second time and passed to engrossment.

House Bill No. 38.

The Chair laid before the Senate, on second reading, the following bill:

H. B. No. 38, A bill to be entitled "An Act to amend Article 3654 of Chapter 26, Title 54, of the Revised Civil Statutes of 1925, and declaring an emergency."

The bill was read second time and passed to engrossment.

House Bill No. 41.

The Chair laid before the Senate, on second reading, the following bill:

H. B. No. 41, A bill to be entitled "An Act to amend Article 3990 of Title 64, of the Revised Civil Statutes of 1925, and declaring an emergency."

The bill was read second time and passed to engrossment.

House Bill No. 47.

The Chair laid before the Senate, on second reading, the following bill:

H. B. No. 47, A bill to be entitled "An Act to amend Article 6424 of Chapter 9, Title 112, of the Revised Civil Statutes of 1925, and declaring an emergency."

The bill was read second time and passed to engrossment.

House Bill No. 140.

The Chair laid before the Senate, on second reading the following bill:

H. B. No. 140, A bill to be entitled "An Act to permit applicants for writs of habeas corpus in all criminal cases where the maximum penalty for such offense does not exceed the punishment of confinement in the State penitentiary for more than

ten years, when the relief prayed for by such applicant is denied by the judge or the court that applicant's petition is filed in a court of competent jurisdiction, and an appeal is taken from such judgment or order of the trial court to the Court of Criminal Appeals to the State of Texas, such applicant may execute a good and sufficient bond to be approved by the court or judge as now provided under provisions of Title 10 of the Code of Criminal Procedure of the State of Texas, 1925; and declaring an emergency."

On motion of Senator Woodward, the committee report was adopted.

Senator Woodward moved to reconsider the vote by which the committee report was adopted. The motion carried.

On motion of Senator Wood, the bill was laid on the table subject to call.

House Bill No. 231.

The Chair laid before the Senate, on second reading the following bill:

H. B. No. 231, A bill to be entitled "An Act to authorize the judge of any district court, or other court having jurisdiction, to appoint a receiver or receivers for any defunct or disorganized church or congregation and authorize the management, sale or other disposition of any and all properties, real, personal, or mixed, and choses in action; and authorizing such court in such cases where such church or congregation may not in the judgment of such court be reorganized within a reasonable time, to deliver such property or its proceeds to a church or congregation, a religious or governing body or other ecclesiastical head, or a State missionary society, of like faith and order, to be used or expended for the use of a church, churches, denomination or communion of like faith and order; and declaring an emergency."

The bill was read second time and passed to third reading.

House Bill No. 71.

The Chair laid before the Senate, on second reading, the following bill:

H. B. No. 71, A bill to be entitled "An Act to amend Chapter 172 of the General Laws of the Regular

Session of the Thirty-ninth Legislature, Section 5, page 388 relating to the preservation and propagation of all wild animals, wild birds and wild fowls of this State, and amending Chapter 6 of the Revised Criminal Statutes, Article 878, page 197, relating to division into zones for the time limits as to hunting game, making provisions for a change in boundary from Longview to Loraine on the Louisiana State line instead of from Longview to Texarkana; and declaring an emergency."

On motion of Senator Wood the committee report was adopted, by the following vote:

Yeas—13.

Bowers.	Pollard.
Fairchild.	Triplett.
Floyd.	Westbrook.
Greer.	Witt.
Moore.	Wood.
Neal.	Woodward.
Parr.	

Nays—9.

Hall.	Reid.
Hardin.	Russek.
Holbrook.	Stuart.
Lewis.	Ward.
Miller.	

Present—not Voting.

Bailey.	Price.
Berkeley.	Smith.
Love.	Wirtz.

Absent.

Bledsoe.	Real.
McFarlane.	

The bill as amended was passed to engrossment by the following vote:

Yeas—16.

Berkeley.	Neal.
Bowers.	Pollard.
Fairchild.	Price.
Greer.	Smith.
Love.	Stuart.
McFarlane.	Westbrook.
Miller.	Wood.
Moore.	Woodward.

Nays—9.

Bailey.	Parr.
Floyd.	Triplett.
Hall.	Ward.
Hardin.	Wirtz.
Holbrook.	

Present—not Voting.

Lewis.	Witt.
Reid.	
	Absent.
Bledsoe.	Russek.
Real.	

Senator Parr moved to reconsider the vote by which the committee amendment was adopted. Senator Bowers moved to table the motion.

Senator Wood raised the point of order that the motion to reconsider the vote by which the amendment was adopted was out of order until the vote by which the bill as amended was passed to engrossment was reconsidered.

The Chair, Lieutenant-Governor Miller, sustained the point of order.

Senator Parr moved to reconsider the vote by which the bill was passed to engrossment. Senator Wood raised the point of order that the motion was out of order since Senator Parr voted with the losing side.

The Chair, Lieutenant-Governor Miller, upheld the point of order.

House Bill No. 128.

The Chair laid before the Senate, on second reading, the following bill:

H. B. No. 128, A bill to be entitled "An Act to provide for the examination, testing and reading of electric light, power, natural and artificial gas meters used by private concerns to determine the amount of power or gas used by their consumers, on complaint made by any of said consumers, in incorporated cities, towns or villages within this State; said examination, testing and reading to be made by the agents of the city council or city commissioners in said cities, towns or villages on complaint being made as aforesaid to them by said consumers; and further providing for the making of reports to such complaining consumers as to results of said tests, reading and examination; providing a penalty for refusal to comply with any of the provisions of this Act; and declaring an emergency."

The bill was read second time and passed to third reading.

House Bill No. 334.

The Chair laid before the Senate, on second reading, the following bill:

H. B. No. 334, A bill to be entitled "An Act changing the date of court in the Twenty-ninth Judicial District, etc."

The committee report was adopted.

The bill was read second time and passed to third reading.

Senate Resolution No. 59.

Senator Moore received unanimous consent to send up the following resolution:

Whereas, Senator and Mrs. T. J. Holbrook, of Galveston, have again demonstrated their usual thoughtful consideration and generous hospitality in the sumptuous sea food dinner served Tuesday evening, February 15, 1927, honoring Governor and Mrs. Dan Moody, Lieutenant Governor and Mrs. Barry Miller, and members of the Senate and their families; and,

Whereas, the dinner was a most delightful one, demonstrating not only the affection of the host and hostess toward those with whom they serve and associate, but the varied products for which Galveston is noted;

Therefore, Be It Resolved by the Senate that we express our sincere and heartfelt thanks to Senator and Mrs. Holbrook, Mr. L. W. Reed of the Galveston Chamber of Commerce, Rob I. Cohn, Jr., of Galveston, John Darrowzet of Galveston, all others of the Island City who contributed to the pleasures and comfort of Tuesday evening.

Wirtz, Hardin, Russek, Bailey, J. W. Hall, Westbrook, Love, Smith, Price, Lewis, Neal, Ward, Julian P. Greer, Thomas G. Pollard, Fairchild, Triplett, Moore, Parr, McFarlane, Reid, Berkeley, R. A. Stuart, Real, Woodward, Wood, Miller, Bowers, Witt, Floyd.

The resolution was unanimously adopted.

Message from the House.

The Chair recognized the Doorkeeper, who introduced a messenger from the House, with the following message:

Hall of the House of Representatives,
Austin, Texas, Feb. 16, 1927.

Hon. Barry Miller, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills:

H. B. No. 118, A bill to be entitled "An Act to amend Articles 5431 and 5432, of Title 88, of the Revised Civil Statutes of the State of Texas of 1925, relating to damages by libel; mitigation of damages occasioned by libel, and the defense in causes of action for libel, and defining privileged matters."

S. B. No. 16, A bill to be entitled "An Act to make it unlawful for any person, firm or private corporation within this State to divert the natural flow of the surface waters in this State or to permit such a diversion to continue after the passage of this Act, or to impound any waters or to permit the impounding thereof to continue after the passage of this Act in such a manner as to damage the property of another; and to provide that in all such cases the injured party shall have remedies, both at law and in equity, including damages occasioned thereby, and declaring an emergency."

S. B. No. 58, A bill to be entitled "An Act to amend Article 3116 of the Revised Civil Statutes of the State of Texas, adopted at the Regular Session of the Thirty-ninth Legislature, 1925, regulating the assessment of candidates for the payment of primary expenses and providing that no candidate's name shall be placed upon the ballot unless he shall have paid his share of such expens so as to limit the amount required to be paid by candidates for Chief Justice or Associate Justice of a Court of Civil Appeals, or for representative in Congress for district judge or district attorney or any other district office in representative or judicial districts composed of four or more counties, and declaring an emergency."

S. B. No. 60, A bill to be entitled "An Act amending Section 4 of Chapter 29 of the General Laws of the Second Called Session of the Thirty-eighth Legislature and adding thereto Section 4-a and amending Section 7 of said Chapter 29, so as to exempt from the inheritance tax provided for in said Chapter bequests, devises, gifts, grants, conveyances and transfers of any kind or character whatsoever passing to or for the use of religious, educational or charitable organizations located within this State or to a city,

town or county within this State or to the State of Texas, to be used within this State; and relieving and releasing any and all beneficiaries of the kind and character above mentioned from payment of any inheritance taxes which may have heretofore accrued; and repealing all laws and parts of laws in conflict with this Act, and declaring an emergency."

S. B. No. 227, A bill to be entitled "An Act authorizing any county in this State upon a vote of two-thirds majority of the resident tax paying voters therein, in addition to all other debts, to issue bonds or warrants, or otherwise lend its credit in an amount not to exceed one-fourth of the assessed valuation of the real property of such county for the purpose of navigation and in aid thereof; providing for the holding of elections for such purpose, the returns of election; the declaration of the result; the issuance of bonds or warrants and the levy of taxes for the payment thereof; giving the right of eminent domain; the right to cooperate with the United States Government for the purpose thereof, and to transfer to the United States Government, right-of-way for navigation purposes, or in aid thereof, and declaring an emergency."

S. C. R. No. 10, Providing for the painting and hanging in the Capitol of the picture of Ex-Governor Miriam A. Ferguson.

M. LOUISE SNOW,
Chief Clerk, House of Representatives.

Amendments to Senate Bill No. 60.

On motion of Senator Holbrook, the Senate concurred in the following amendments to S. B. No. 60:

Amend Senate Bill No. 60, at end of line 21 on page 2, by adding the following: "Provided that upon the abandonment or dissolution of any such organization or institution mentioned herein, before there shall be any distribution of its assets among its stockholders, there shall first be paid the State of Texas an amount of money equivalent to the taxes released herein."

Amend Senate bill No. 60 by adding to the end of the caption the following:

"Provided that upon the abandonment or dissolution of any such organization mentioned herein, be-

fore there shall be any distribution of its assets among its stockholders there shall be paid the State of Texas an amount of money equivalent to the taxes released herein."

Amend Senate Bill No. 60, Section 4a, line 13, page 2, between words "all" and "religious," insert words "bona fide."

Amend Senate Bill No. 60 by adding after the word "organization" wherever it occurs the words "or institution."

House Bills Read and Referred.

The following House Bills were laid before the Senate, read, severally, first time and referred to appropriate committees:

H. B. No. 118, referred to Committee on Civil Jurisprudence.

House Bill No. 147.

Senator Berkeley called up from the table the following bill:

H. B. No. 147, A bill to be entitled "An Act to amend Article 2249 of the Revised Civil Statutes of Texas, 1925, adopted at the Regular Session of the Thirty-ninth Legislature, so as to repeal that portion of said article, allowing an appeal to the Court of Civil Appeals from every order of any district or county court in civil cases, granting motions for new trials, and declaring an emergency."

The bill was read second time and passed to engrossment by the following vote:

Yeas—24.

Berkeley.	Neal.
Bledsoe.	Pollard.
Floyd.	Price.
Greer.	Reid.
Hall.	Russek.
Hardin.	Smith.
Holbrook.	Stuart.
Lewis.	Triplett.
Love.	Westbrook.
McFarlane.	Wirtz.
Miller.	Witt.
Moore.	Woodward.

Nays—5.

Bailey.	Ward.
Bowers.	Wood.
Parr.	

Present—not Voting.

Fairchild.

Absent.
Real.

On motion of Senator Berkeley, the constitutional rule requiring bills to be read on three several days was suspended and H. B. No. 147 put on its third reading and final passage, by the following vote:

Yeas—23.

Bailey.	Reid.
Berkeley.	Russek.
Bledsoe.	Smith.
Hall.	Stuart.
Holbrook.	Triplett.
Lewis.	Ward.
Love.	Westbrook.
Miller.	Wirtz.
Moore.	Witt.
Parr.	Wood.
Pollard.	Woodward.
Price.	

Nays—2.

Bowers. Greer.

Present—not Voting.

Fairchild.	Hardin.
Floyd.	McFarlane.

Absent.

Neal. Real.

The bill was read third time and passed finally, by the following vote:

Yeas—23.

Berkeley.	Pollard.
Fairchild.	Price.
Floyd.	Reid.
Greer.	Russek.
Hall.	Smith.
Hardin.	Stuart.
Lewis.	Triplett.
Love.	Westbrook.
McFarlane.	Wirtz.
Miller.	Witt.
Moore.	Woodward.
Neal.	

Nays—5.

Bailey.	Ward.
Bowers.	Wood.
Parr.	

Absent.

Bledsoe.	Real.
Holbrook.	

Senate Bill No. 168.

The Chair laid before the Senate, as pending business, the following bill:

S. B. No. 168, A bill to be entitled "An Act amending Articles 1256 and 1257 of the Penal Code of 1925, so as to properly define murder, and fixing the punishment for murder; inserting in the Penal Code a new article numbered 1257-a relating to what may be proved, and considered by the jury, in determining the punishment to be assessed for murder; repealing Chapter 15 of Title 15 of the Penal Code of 1925, relating to manslaughter and all other laws in conflict with this Act, and declaring an emergency."

Senator Bowers sent up the following amendment:

Amendment No. 1, S. B. No. 168.

Amend Senate Bill No. 168 by adding a new section to be known as Section 2, and renumbering the other sections accordingly.

Sec. 2. Article 1244 of the Penal Code of the State of Texas, of 1925, is hereby amended, so as to read as follows:

Article 1244. In all cases wherein a defendant is on trial for murder in this State, if the facts shall justify it, the court shall, if requested by the defendant, charge the jury, that if they find the alleged homicide was committed by the defendant, and that such homicide was voluntary, yet, if said homicide was committed under the immediate influence of sudden passion arising from an adequate cause, but, neither excused or justified in law, then they shall convict the defendant of murder, and assess his penalty at a term of years in the State penitentiary for a term of years not less than two nor more than five. And in the event such jury shall assess the penalty in said case at a term of five years or less, then such defendant shall not again be placed in jeopardy of a punishment more severe than five years in the State penitentiary.

Senator Woodward sent up the following substitute amendment:

Amend S. B. No. 168 by adding Section No. 3a, reading as follows:

"In all cases tried under the provisions of this Act, it shall be the duty of the court to define 'malice aforethought' and shall instruct the jury that unless from all the facts and circumstances in evidence the jury believes the defendant was

prompted and acted without malice aforethought, they cannot assess the punishment at a period longer than five years."

The amendment was adopted.

Senator Bowers moved that the bill as amended be indefinitely postponed.

The motion was lost by the following vote:

Yeas—8.

Bailey.	Parr.
Bowers.	Real.
Holbrook.	Russek.
Miller.	Wirtz.

Nays—20.

Berkeley.	Price.
Bledsoe.	Reid.
Fairchild.	Smith.
Floyd.	Stuart.
Lewis.	Triplett.
Love.	Ward.
McFarlane.	Westbrook.
Moore.	Witt.
Neal.	Wood.
Pollard.	Woodward.

Absent.

Hardin.

(Pairs Recorded.)

Senator Hall (present), who would vote yea; with Senator Greer (absent), who would vote nay.

The bill as amended was passed to engrossment by the following vote:

Yeas—19.

Berkeley.	Price.
Bledsoe.	Reid.
Fairchild.	Smith.
Floyd.	Stuart.
Lewis.	Triplett.
Love.	Ward.
McFarlane.	Witt.
Moore.	Wood.
Neal.	Woodward.
Pollard.	

Nays—10.

Bailey.	Parr.
Bowers.	Real.
Hardin.	Russek.
Holbrook.	Westbrook.
Miller.	Wirtz.

(Pairs Recorded.)

Senator Hall (present), who would vote nay; with Senator Greer (absent), who would vote yea.

The motion of Senator Woodward

to suspend the constitutional rule requiring bills to be read on three several days was lost by the following vote:

Yeas—12.

Berkeley.	Pollard.
Bledsoe.	Price.
Floyd.	Reid.
Hall.	Smith.
Lewis.	Stuart.
Love.	Ward.
McFarlane.	Witt.
Moore.	Wood.
Neal.	Woodward.

Nays—18.

Bailey.	Parr.
Bowers.	Real.
Fairchild.	Russek.
Hardin.	Triplett.
Holbrook.	Westbrook.
Miller.	Wirtz.

Absent.

Greer.

Senate Joint Resolution No. 13.

Senator Moore called up from the table the following joint resolution:

S. J. R. No. 13, A joint resolution "Amending a section of the Constitution of the State of Texas as follows: Section 3 of Article 7 relating to taxation for free public school purposes and the distribution thereof, and providing free textbooks for certain scholastics."

The resolution was read.

The committee report carrying amendments was adopted.

Bills Signed.

After their captions had been read, the Chair, President pro tem Wood, signed in the presence of the Senate the following bills:

S. B. No. 58.
S. C. R. No. 10.
S. B. No. 227.
S. B. No. 60.
S. B. No. 16.

Executive Session.

Senator Hall at 4:40 p. m. moved that the Senate go into executive session at 5 o'clock for the purpose of considering the Governor's nominations.

The motion was adopted.

At 5 o'clock the Senate went into executive session.

At 5:10 o'clock, the doors were open and the secretary announced the confirmation by the Senate of the following appointments:

Honorable Henry T. Kimbro of Lubbock County, to be a member of the Board of Directors of the Texas Technological College, to succeed himself, for a term of six years.

Honorable C. George Comegys of Collin County, to be a member of the Board of Directors of the Texas Technological College, to fill the vacancy caused by the resignation of Honorable Amon G. Carter.

Honorable George M. Craig of Jefferson County, to be Pilot Commissioner for the Sabine Pass District.

Honorable J. A. Whitten of Schleicher County, to be a member of the State Livestock Sanitary Commission.

Honorable W. R. Chapman of Jones County, to be Judge of the 104th Judicial District of the State of Texas.

Honorable Clyde Grissom of Haskell County, to be a District Attorney of the 39th Judicial District.

Honorable Albert Brown of Lampasas County, to be Public Weigher at Lampasas, Texas; (Article 5682, requiring recommendation of applicant by Senator and Representatives of his District, has been complied with).

Honorable R. L. Holliday, of El Paso County, to be a member of the Board of Regents of the University of Texas.

Mrs. H. J. O'Hair of Coleman County, to be a member of the Board of Regents of the University of Texas.

House Bill No. 71.

The motion of Senator Fairchild to reconsider the vote by which H. B. No. 71 was engrossed was ordered spread on the Journal.

Senate Bill No. 396.

On motion of Senator McFarlane S. B. No. 396 was withdrawn from the Committee on Civil Jurisprudence and re-referred to the Committee on Judicial Districts.

Adjournment.

On motion of Senator Wood, the Senate, at 5:20 p. m., adjourned until Thursday morning at 10 o'clock.

APPENDIX.

Petitions and Memorials.

By Bailey—State Affairs.

Resolutions adopted by Three Rivers Chamber of Commerce protesting against the further creation of boards, commissions and bureaus.

By Bailey—State Affairs.

Resolutions adopted by Cuero Chamber of Commerce and Agriculture protesting against the creation of any further boards, commissions and bureaus.

Collinsville, Texas, Feb. 5, 1927.
Hon. Ed Westbrook,
Austin, Texas.

Dear Sir: We, the undersigned citizens and voters of Grayson County, do hereby protest against a certain bill which we understand is now before the Legislature which if passed, will require each member of a family who drive cars to be liscensed, we do not believe this will lessen the accidents, and only be an increased burden upon the taxpayers, therefore we request that you use your influence and best efforts to defeat such a bill.

J. R. Kirkpatrick, J. W. Dishman, C. A. Lynch, T. J. Christopher, G. J. Scroggins, P. W. Howell, H. E. Hudspeth, W. N. Beyman, E. S. Deggris, S. B. Cason, A. Blakely, W. S. Sanders, F. I. Fulenwider, W. L. Stephenson, J. A. Pearce, E. L. Gilmore, J. R. Mitchell, A. T. Tuck, H. W. Wiley, R. G. Scott, J. T. Kersey, Geo. L. McGaughy, W. J. McGaughy, G. A. Brown, O. F. Henderson, R. E. Reedy, W. P. Strickland, R. W. Watt, R. S. Rossel, I. J. Kemp, Mrs. I. J. Kemp, R. E. Ragsdale, W. P. Peephacy, C. F. Goodman, Mrs. C. F. Goodman, Mrs. W. P. Peephacy, J. P. Stuart, E. R. Mayfield, J. B. Farr, A. E. Bowling, W. L. Stark, Harold Z. Moncrief, J. Van Nichols, Leo Nichols, Mrs. Mattie Tuck, Mrs. Leo Nichols, L. A. Self, G. M. Chaffee, John Malone, W. H. Johnson, J. H. Green, J. T. Gordon, Harvey C. Ross, W. W. Brewer, E. A. Hite, H. J. Jolly, T. M. Swindle, E. W. Wright, R. F. Mitchell, D. W. Arnold, N. J. Miller, H. P. Clock, John C. B. Emmons, J. B. Swindle, Roy H. Stewart, C. C. Miller, L. G. Graham, D. W. Moncrief, W. L. Brunle, L. L. Owen, L. W. Keith, Mrs. C. C. Miller, R. M. Walthall, Jno. S. Swindle, J. R.

Jordan, W. F. Stanley, J. H. Harlinson, W. S. Hort, S. H. Tuck, J. V. Deaver, I. H. Henderson, Naylor Bros., W. J. Heuffokre, J. W. Hackney, J. T. Brewer, W. B. Harris, T. W. Baker.

Southern Methodist University
Dallas, Texas
School of Theology
February 12, 1927.

To the members of the Senate and House of Representatives,
Austin, Texas.

We the undersigned professors of Southern Methodist University and citizens of Dallas earnestly protest the passage of House Bill No. 341 which has as its object the legalizing of Sunday theaters and moving picture shows.

Just now the country is experiencing an unprecedented crime wave and we can think of nothing that would do more to augment this wave than to break down the Sabbath and to abrogate Sabbath laws. We confidently call upon you to use your influence against the passage of House Bill No. 341.

Signed, Chas. O. Lelecman, W. D. Bradfield, J. Lichard Spann, Ira Miner, James Seehowseneker, J. Kilgore, J. H. Hicks, C. M. Bishop, A. C. Zumbrunner, Sadie C. Cannon, Layton W. Bailey, C. A. Nichols, G. G. Smitz, Robert E. Dickenson, C. W. Hall, I. K. Stephens, A. W. Wasom.

Permission to Print.

Consent was received to have read and printed in the Journal the following:

WHO'S TO BLAME.

The usual and expected aftermath has followed the recent ousting of two members of the Texas Legislature on bribery charges. A hue and cry against lobbyists of all sorts has gone up. Charges and counter-charges have been made; the cry of "frame-up" is heard, and it is certain that the entire transaction will become another political issue. And in the numerous sideshows that becloud the main attraction the public is likely to go off at a tangent of personalities and lose sight of the real cause for such happenings and the ones most to blame.

The real cause lies in the conditions that make such things possible

and the persons most to blame are the voters themselves. Few pay any attention to the character and ability of the average candidate for the Legislature. Too often they vote without knowing them or a single thing about them. They are as so many names on the ballot, from which one or more must be chosen. Yet, these same men, about whom the voter is so careless, must make the laws of the State, pass upon appropriations involving millions of dollars, levy our taxes, provide revenues for the conduct of our schools and the operation of the various departments of our State government. The voter thinks little of this. He doesn't want the office himself and apparently he doesn't care about the man who does want it. Without thought, he is willing to entrust to a person he has probably never seen and about whom he too often knows absolutely nothing a responsibility of this gravity. And in return he is willing that the legislator should receive the huge sum of \$5 a day while he is actually working and the railroad fare to and from Austin and his home city.

Such apathy upon the part of the citizens and such niggardly pay are certain to produce situations of this character. The surprise should not be that such charges have been made or that two members have been expelled. The surprise should lie in the fact that there have not been more of such cases. That there have not been is due to the credit of Texas legislators, past and present, and after all it but proves what the public oftentimes is unwilling to believe: that the majority of men in public life are honest.

Under such conditions, hardly more than four types of legislator are possible: The incompetent to whom \$5 a day is sufficient earning; the inexperienced, who regard legislative service as a stepping stone to some other character of political preferment; the man who will serve for such a sum in the hopes of making more through outside means, either while in the Legislature or out; and, of course, the able, patriotic man, who is willing to serve at a financial sacrifice to himself. This latter class, of course, is in a minority, not alone in the Texas Legislature but in other State bodies, and of them such sacrifice is something the State

should not and has no right to ask.

A State as great as Texas should not expect any man to spend 60 days of his time working for it for \$5 a day and spending \$20 or \$25 in necessary expenses while doing so. It should make the pay somewhat commensurate with the service at least and somewhat in keeping with the responsibilities imposed. The laborer should be worthy of his hire. This done, the voters should awake to a new appreciation of the importance of the Legislature and something of the requirements of its individual members. These things done, a higher type of men can be induced to seek these offices.

And while the voters are about it they should go thoroughly into the matter of salaries paid to State officers. No greater need exists in Texas than the need for their entire overhauling. Salaries fixed when the Constitution was adopted in 1876 are woefully inadequate in this day and time, just as the salaries paid by business concerns of that time would be out of date and inadequate in present day business. For Texas to pay its Governor \$4,000 a year is little short of a disgrace. Justices of the Supreme, Appellate and the majority of district courts are badly underpaid and are forced to undergo the humiliation of a primary campaign that lowers the dignity of their offices and embarrasses them, doubtless, in a thousand ways when on the bench. Highway commissioners must supervise 12,000 miles of road and the spending of \$20,000,000 a year. Yet, the State pays them \$2,500. The Attorney General receives but \$4,000; less than most any mediocre lawyer can make. Railroad commissioners get but \$5,000. And so it goes all down the line, from the highest office to the lowest. The State of Texas is the worst employer in Texas. It has been fortunate in being able to find capable, conscientious and patriotic men who have filled these offices at such inadequate salaries and in most cases at personal sacrifices to themselves. It has had great governors, able attorneys general and distinguished jurists on its Supreme and Appellate Court benches, as well as able railroad commissioners. For the most part, every one of these offices is ably filled now. But it isn't right that a State so large, whose

problems are growing daily in immensity and complexity, should ask any man to go through an arduous and bitter campaign for the privilege of serving at a sacrifice to himself.

Consent was granted to print the following in the Journal.

Tyler, Texas, Feb. 12, 1927.

During the past several months there has been in the press of the State much propoganda from the West Texas Chamber of Commerce, The Texas League for Equal and Uniform Taxation, and from others, in which complaint has been made that certain counties are receiving from the State Treasury more money than they pay into it. I used the word propoganda advisedly, and quote a sentence from an address delivered by Dr. Ernest Martin Hopkins, President of Dartmouth College, to illustrate what I understand propaganda to be. He said: "The two great conflicting forces of the world at the present time are the spirit of truth and the spirit of propaganda, the former of which leads to the light and to ultimate peace and happiness, and the latter of which is not only the father of lies but a whole ancestral tree ultimately making for confusion and distress."

The propaganda on the tax question is for the purpose of creating the impression that certain counties in Texas are slackers in the valuation of the property therein and in the payment of their just portion of the money necessary to support the State Government, and that those counties which receive from the State Treasury less than they pay in are being imposed upon, and are unjustly treated. East and North Texas have been specifically pointed out by the Equal Tax League and Ft. Worth, Texas, Chamber of Commerce as portions of the State which are imposing on the other portions. Recently there was distributed by the Texas League for Equal and Uniform Taxation, Incorporated, a circular which has on it a map of twelve counties — Kaufman, Van Zandt, Rains, Rockwall, Denton, Collin, Hunt, Hopkins, Delta, Red River, Lamar and Fannin. The author of that circular endeavors to show that the twelve counties for 1924-1925 received from the State, \$899,125.00 more than they paid into the State Treasury and, therefore, that there

is in the State unequal and lack of uniformity of taxation and that those counties are slackers.

The statement that the counties in East and North Texas are not rendering the property therein at fair valuations in proportion to rendition in other counties and other localities, is not only not true, but is propaganda pure and simple. The statement that the amount of money drawn out of the State Treasury by any particular county has any relation to the assessed values in that county is not true. The counties in East and North Texas render their property higher in proportion to its real cash value than do any other counties in the State.

The reason that there are certain counties which draw out more money than they pay in is that those counties are thickly populated and have many children therein. In the twelve counties named in the circular, there are approximately 116,928 scholastics. There are more children in those twelve counties than there are in ninety counties in West Texas.

Begin at the Southwest corner of El Paso County, run down the Rio Grande River to the Southeast corner of Kinney County thence north along the West boundary of Dimmitt, Zavalla, Uvalde, Real, Kerr, Kimble, Menard, Concho, Runnels, Taylor, Jones; thence East along the North boundary of Jones and Shackelford counties to Throckmorton; thence to Red River, and up Red River to the corner of Texas and Oklahoma and all around the boundary of Texas back to the Northeast corner of El Paso County; thence along its East boundary to the beginning point, and you will have a territory approximately the size of the State of New York, Pennsylvania, Massachusetts, Rhode Island and New Jersey combined. In that territory, there are 115,145 scholastics. In the twelve counties named, there is one scholastic to 47.7 acres of land; in that vast expanse in West Texas there is one scholastic to 611 acres of land.

To illustrate further: Hunt County had about 14,500 scholastics and, on a State apportionment of \$14.00, drew out for school purposes approximately \$203,000.00. Culberson County, for the same year, had about 140 scholastics, and on a

State apportionment of \$14.00, drew out for school purposes \$1,960.00.

In Hunt County, there was one scholastic to 40.8 acres of land. In Culberson County, there was one scholastic to 17,320 acres of land.

Hopkins County had about 10,000 scholastics and on a State apportionment of \$14.00, drew out \$140,000.00.

Crockett County had about 480 scholastics and drew out \$6,820.00.

In Hopkins County there was one scholastic to 52 1-4 acres of land. In Crockett County, there was one scholastic to 4200 acres of land.

Collin County had about 15,000 scholastics and on a State apportionment of \$14.00 drew out \$210,000.00. In Collin County there was one scholastic to 37.4 acres of land.

Loving County had 20 scholastics, and on a State apportionment of \$14.00 drew out \$280.00. In Loving County there was one scholastic to 24.256 acres of land.

These statistics are based on information found in the reports of the Department of Education for the years 1922-1924, inclusive. They are approximately correct.

An analysis of the reports made by the State Comptroller will show to any fair-minded man who is digging for the truth, that the renditions of property in the particular counties selected in Central North and East Texas are higher in proportion to their real value than they are in all that vast country in West Texas where there is only one scholastic to 611 acres of land.

The fact is that all of the counties in North and East Texas, excluding those counties in which one or two great cities are located, the renditions for taxation are much higher in proportion to actual value than are the renditions in those counties in West Texas included in the territory covered by the West Texas Chamber of Commerce.

The fundamental basis of all that has been said and written are two propositions: one is that there are those who believe and teach the iniquitous doctrine that the education of the children of this State is a matter strictly of local concern, they subscribe to the idiotic notion that, "local support is basic" and that each school district should finance its school and furnish education opportunities to the children therein.

Those who advocate that proposition regard children as they regard cattle, horses and hogs—that they are the property of their parents. They do not look upon them as the future citizens of this republic.

The other proposition in which they strongly believe is that it is not the business of the State to furnish equal educational opportunities for all of the children, regardless of whether they happen to be born and live in a poverty-stricken community or in a wealthy city or in a school district where there is an oil field. To state the situation as it is, they do not believe in the education of the children of this republic and they are unwilling to pay the taxes necessary to raise the funds with which to pay the expenses of the schools.

To those in West Texas who are so persistent in their tax reform propaganda, and who earnestly endeavoring to settle that vast undeveloped country, I call special attention to these most important facts. They desire educated, trained men and women to aid developing that country. They want such as have at least a High School education. That country will be settled by those who move from the populated sections of Texas and other States. Neither the localities, the school districts, nor the counties can furnish the money to finance the schools. That money must come from the State Treasury. If it happens that some of the counties now pay in more than they draw out, it is solely because such counties are not thickly populated. As they grow and increase in population, they will change positions, and the same hired men working for the Texas League and Uniform Taxation will be printing maps and distributing circulars showing that West Texas counties constituting its present ally are slackers: and if I am here, I will be defending those counties and pleading for the children there just as I am now pleading for the children of the populated portions of Texas.

According to that League, already there are West Texas counties which should be placed in the slacker column. Wheeler, Taylor, Stonewall, Scurry, Haskell, Runnels, Jones, Hockley, Hall, Fisher, Dickens, Dawson, Crosby, Collingsworth

were placed in that column in 1922 by the report of the Tax Commissioner of the State of Texas, and no doubt the scholastic apportionment of \$14.00 for 1926-1927 will change the position of many others, and we will find the red-blooded counties through-out West Texas changed on the maps distributed by the Equal Tax League to deep yellow-slackers.

The Texas League for Equal and Uniform Taxation and the Chambers of Commerce and others, should fully comprehend one fundamental proposition—that the education of the children of Texas is a State Problem and not a school district or county problem. There is in truth only one school district in Texas, and that district covers every foot of territory from Texline to Sabine Pass and from Texarkana to El Paso. It is as important for the children of the most obscure and poverty-stricken district in East Texas to be trained and educated, to be the right kind of citizens, as it is for those who live in the town where the president of the West Texas Chamber of Commerce has his home. In order to educate the children in all the districts in the State, and train them as they must be trained, we must have a minimum salary for teachers of at least \$1,500.00 per annum. That day must come within the next very few years. Then we will spend out of the State Treasury at least \$30,000,000.00 more money per annum than we now spend, and then all of the counties in Texas will be receiving more money than they pay in. Then there will be no "yellow counties," but all of the counties will be inhabited with citizens who have been trained and educated by the State to understand and know how to be great upstanding citizens of this republic. The propaganda to change the situation so that each county will draw out an amount equal only to what it pays in, if successful, will deprive many children of Texas of that equal educational opportunity which we supposed was guaranteed by the Constitution.

There are some things which must be established in Texas before we will make substantial progress in educational affairs. The infamous doctrine that local "support is basic," must be destroyed, root and branch, and in its stead the true fundamental

verity that the education of the children of this State is a State duty, untrammelled and unhindered by the ignorance and prejudices or the poverty and pauperism of localities and school districts.

There can be no substantial improvement in the public school system in this State until the standard of the teachers is raised in all of the rural districts and in the villages and towns. That standard cannot and will not be raised until a minimum salary for every teacher is established at not less than \$1,500.00 per annum. There can be no efficient schools without efficient, trained, educated teachers. Such teachers cannot be induced to remain in the profession and teach in the districts outside of the cities when they are not paid as much on the average per annum as the negro porters who serve the departments of the State government, or who clean cuspidors and keep burning the fires in the school buildings in the cities in the State. The doctrine that local support is basic and that teachers' salaries should not be increased, are the pet theories and views of the corporations of this State and of those who are unwilling to pay taxes to finance an efficient State school system. Those doctrines constitute the fundamental basis of the propaganda which the paid agents of the Equal Tax League use in slandering the sections of the State where the children are numerous and where cash value of property is low.

T. M. JONES.

Senator Moore received unanimous consent to have the following printed in the Journal:

Texas

Oh, it's good to live in Texas,
Where men live by the plan,
It matters not your breeding,
So long as you're a man—
A man among your neighbors,
Without a creed or caste,
There in the rough together,
Build friendships that will last;
Oh, they care not what you are,
So long as you are square,
In Texas, mighty Texas!
The land beyond compare.

Oh, it's good to live in Texas
The land of sweet romance,
Where the cowboy, still a feature,

Rides his paint horse to the dance,
Where the girls are fairer, sweeter,
And they have no silly pride
But laugh at old tradition,
Mount their ponies, now astride;
Oh, they live and love in Texas,
In a way that is meant,
Texas, mighty Texas!
Sweet land of sentiment.

Oh, it's good to live in Texas,
Where the soil produces more,
Where the cotton grows abundant,
Where the corn is to the fore;
Where the orange and grapefruit,
And vegetables are
More succulent and luscious
And sweeter, yes, by far,
Where the soil and climate blend,
Assuring perfect health,
Texas, mighty Texas!
The land of greater wealth.

Oh, it's good to live in Texas,
And sniff the balmy air,
To wallow in the sunshine,
To work and do my share,
To grow up in an empire,
Where the bigness of the whole
Is an everlasting challenge
To a man who has a soul,
To just let old Texas take me,
And mould a man of worth,
Texas, mighty Texas!
The best land on earth.

JAMIE HERON.

Committee on Enrolled Bills.

Committee Room,

Austin, Texas, Feb. 11, 1927.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 62 carefully examined and compared and find the same correctly enrolled, and have this day at 11:45 o'clock a. m., presented to the Governor for his approval.

FLOYD, Chairman.

Committee Room,

Austin, Texas, Feb. 11, 1927.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Enrolled bills have had S. B. No. 87 carefully examined and compared, and find the same correctly enrolled, and have this day at 11:45 o'clock a. m., presented the same to the Governor for his approval.

FLOYD, Chairman.

Committee Room,
Austin, Texas, Feb. 11, 1927.
Hon. Barry Miller, President of the
Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 88 carefully examined and compared, and find the same correctly enrolled, and have this day at 11:45 o'clock a. m., presented the same to the Governor for his approval.

FLOYD, Chairman.

Committee Room,
Austin, Texas, Feb. 11, 1927.
Hon. Barry Miller, President of the
Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 18 carefully examined and compared, and find the same correctly enrolled, and have this day at 11:45 o'clock a. m., presented the same to the Governor for his approval.

FLOYD, Chairman.

Committee Room,
Austin, Texas, Feb. 11, 1927.
Hon. Barry Miller, President of the
Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 90 carefully examined and compared, and find the same correctly enrolled, and have this day at 11:45 o'clock a. m., presented the same to the Governor for his approval.

FLOYD, Chairman.

Committee Room,
Austin, Texas, Feb. 11, 1927.
Hon. Barry Miller, President of the
Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 92 carefully examined and compared, and find the same correctly enrolled, and have this day at 11:45 o'clock a. m., presented the same to the Governor for his approval.

FLOYD, Chairman.

Committee Room,
Austin, Texas, Feb. 11, 1927.
Hon. Barry Miller, President of the
Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 94 carefully examined and compared, and find the same correctly enrolled, and have this day at 11:45 o'clock a. m., presented the same to the Governor for his approval.

FLOYD, Chairman.

Committee Room,
Austin, Texas, Feb. 11, 1927.
Hon. Barry Miller, President of the
Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 93 carefully examined and compared, and find the same correctly enrolled, and have this day at 11:45 o'clock a. m., presented the same to the Governor for his approval.

FLOYD, Chairman.

Committee Room,
Austin, Texas, Feb. 16, 1927.
Hon. Barry Miller, President of the
Senate.

Sir: We, your Committee on Enrolled Bills, have had S. C. R. No. 10 carefully examined and compared, and find the same correctly enrolled, and have this day at 5 o'clock p. m., presented the same to the Governor for his approval.

FLOYD, Chairman.

Committee Room,
Austin, Texas, Feb. 16, 1927.
Hon. Barry Miller, President of the
Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 227 carefully examined and compared, and find the same correctly enrolled, and have this day at 5 o'clock p. m., presented the same to the Governor for his approval.

FLOYD, Chairman.

Committee Room,
Austin, Texas, Feb. 16, 1927.
Hon. Barry Miller, President of the
Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 58 carefully examined and compared, and find the same correctly enrolled, and have this day at 5 o'clock p. m., presented the same to the Governor for his approval.

FLOYD, Chairman.

Committee Room,
Austin, Texas, Feb. 16, 1927.
Hon. Barry Miller, President of the
Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 16 carefully examined and compared, and find the same correctly enrolled, and have this day at 5 o'clock p. m., presented the same to the Governor for his approval.

FLOYD, Chairman.

Committee Room,
Austin, Texas, Feb. 16, 1927.
Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 60 carefully examined and compared, and find the same correctly enrolled, and have this day at 5 o'clock p. m. presented the same to the Governor for his approval.

FLOYD, Chairman.

Committee Reports.

Committee Room,
Austin, Texas, Feb. 16, 1927.
Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Public Health, to whom was referred

S. B. No. 286, A bill to be entitled "An Act regulating the sale of insecticides and fungicides, prohibiting their adulteration or misbranding, providing for their correct weighing and marking, forbidding the use of certain materials in connection therewith, providing for the collection and analysis of samples, statements of sales and shipment, the expenses of the enforcement of the law, fixing penalties for its violation; providing other matters and things incidental to the purpose of the Act; and declaring emergency."

Have had the same under consideration, and I am instructed to report same back to the Senate with the recommendation that it do pass.

BERKELEY, Chairman.

Committee Room,
Austin, Texas, Feb. 15, 1927.
Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Judicial Districts, to whom was referred

H. B. No. 351, A bill to be entitled "An Act providing for assistants to the District Attorney in Judicial District composed of more than one county and in which there is a city of 50,000 or more; providing for the compensation, oath, tenure and duties of said assistants; and providing all things necessary and incident to the main purpose of the Act; and declaring an emergency."

Have had same under consideration, and I am instructed to report same back to the Senate with the recommendation that it do pass.

HARDIN, Vice-Chairman.

Committee Room,
Austin, Texas, Feb. 16, 1927.
Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Judicial Districts, to whom was referred

S. B. No. 383, A bill to be entitled "An Act to amend Article 1021 of Chapter 2, of Title 15, of the Code of Criminal Procedure, Revised Criminal Statutes of Texas, so as to provide for the payment of \$20.00 per day for each day district attorneys in certain districts attended any session of the district court in their respective districts, in the necessary discharge of their official duties, and for each day they represent the State at examining trials, inquest proceedings in vacation, and providing the manner of the payment thereof, and for each day necessarily used in going to and coming from one court to another in the necessary and official discharge of their duties, repealing all laws in conflict therewith; and declaring an emergency."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass.

PRICE, Chairman.

Committee Room,
Austin, Texas, Feb. 15, 1927.
Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Constitutional Amendments, to whom was referred

S. J. R. No. 5, A joint resolution "Proposing ten amendments of the Constitution, relating to Public Education: (1) Limiting terms of officers of school system to ten years; (2) providing for a State Board of Education; (3) providing for a State Board of Higher Education; (4) authorizing a county school tax not exceeding 50 cents; (5) authorizing issuance of anticipation warrants; (6) providing for distribution of State school fund as the Legislature may prescribe; (7) providing for the equalization of taxation; (8) repealing prohibition of appropriations to Universities for building purposes; (9) providing for stabilization of the available school fund; (10) fixing the date at which terms of appointive officers shall begin."

Have had same under consideration, and I am instructed to report

it back to the Senate with the recommendation that it do pass.

STUART, Chairman,

Committee Room,
Austin, Texas, Feb. 15, 1927.
Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Constitutional Amendments, to whom was referred

S. J. R. No. 11, A joint resolution "Proposing an amendment to the Constitution of the State of Texas as follows: Section 1 of Article 8, relating to uniform taxation; poll, occupation and income tax; and exempting income of natural persons from taxation."

Have had same under consideration, and I am instructed to report same back to the Senate with the recommendation that it do pass.

STUART, Chairman.

Committee Room,
Austin, Texas, Feb. 15, 1927.
Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Constitutional Amendments, to whom was referred

S. J. R. No. 25, A joint resolution "Proposing an amendment to the State Constitution so as to authorize the submission to the people of constitutional amendments at Special Sessions of the Legislature."

Have had same under consideration, and I am instructed to report same back to the Senate with the recommendation that it do pass.

STUART, Chairman.

Committee Room,
Austin, Texas, Feb. 15, 1927.
Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Constitutional Amendments, to whom was referred

S. J. R. No. 23, A joint resolution "Proposing an amendment to the State Constitution providing that cities having more than 5,000 inhabitants may, by majority vote of the qualified voters of such city at an election held for that purpose, amend their charter so as to provide that all elective officers of such city that are now, or that hereafter may be established by the charter of such city, be elected for a term of four years,"

Have had same under considera-

tion, and I am instructed to report same back to the Senate with the recommendation that it do pass.

STUART, Chairman.

Committee Room,
Austin, Texas, Feb. 15, 1927.
Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Constitutional Amendments, to whom was referred

S. C. R. No. 18, A resolution "Providing for a Convention to frame a Constitution for the State of Texas,"

Have had same under consideration, and I am instructed to report same back to the Senate with the recommendation that it do pass, and be printed in the Journal but not in bill form, a previous resolution on the same subject having been favorably reported back to the Senate.

STUART, Chairman.

By Stuart.

S. C. R. No. 18.

A CONCURRENT RESOLUTION

Providing for a convention to frame a Constitution for the State of Texas.

Be it resolved by the Legislature of Texas:

Section 1. That a convention to frame a new Constitution for the State of Texas shall assemble at the City of Austin, on the first Monday in September, A. D. 1927, for the purpose of framing a new Constitution.

Sec. 2. The convention herein provided for shall be composed of ninety-three delegates of the people.

Sec. 3. Such delegates shall be chosen and elected by the qualified electors of the State of Texas, as follows: The qualified electors of each senatorial district shall choose and elect three delegates. Such delegates shall not be deemed public officers, and members of the Legislature shall not be disqualified by reason of such membership to become delegate to said convention.

Sec. 4. An election shall be held on the first Monday in August, 1927, for the election of such delegates; such election shall be governed and controlled by the laws now in force in regard to general elections; and at said election each voter, in voting for delegates, shall vote "for convention" or "against convention,"

and the votes of each county for and against convention shall be certified to the Secretary of State by the county judge of such county; and if upon the count of the votes of the people of the State it be found that a majority have voted a convention, it shall be the duty of the Governor to issue his proclamation convening the delegates elected to said convention in accordance with the provisions of this Concurrent Resolution; provided that if it be found that a majority of the voters at said election have voted "against convention," the said convention shall not be convened.

Sec. 5. The Governor shall issue his proclamation upon the passage of this resolution, directing the several officers of this State empowered by law to conduct, manage and supervise elections under the laws of Texas, and as now provided by this Resolution, to hold said election, and make return of the result of the same. Upon said convention it shall proceed to frame a new Constitution for the State of Texas and submit the same to a vote of the qualified electors of this State at a general election to be held throughout the State on a date and at a time to be determined by said constitutional convention, and said proposed constitution as so framed shall not become the constitution of this State unless it shall be adopted by a majority vote of the qualified electors of this State voting at said election, if it should receive such majority vote it shall become the Constitution of the State of Texas.

Sec. 6. That the sum of two hundred fifty thousand dollars (\$250,000.00) or so much thereof as may be necessary, be and the same is hereby appropriated out of the State Treasury, to pay the mileage of the delegates to and officers of said convention and the contingent expenses of said body which may be drawn or paid out on sworn acts and warrants issued by the Comptroller as provided by the General Laws of this State. Said appropriation shall also be available to pay the expenses of publishing the proclamation of the Governor made necessary by this Resolution and any other expense necessary to be incurred by reason of the Resolution.

Committee Room,

Austin, Texas, Feb. 15, 1927.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Constitutional Amendments, to whom was referred

H. J. R. No. 7, A joint resolution "Proposing to amend Section 26, Article 4 of the Constitution of the State of Texas, to provide that the Governor of the State may appoint notaries public at any time and it shall not be necessary that the notaries public appointed by the Governor be confirmed by the State Senate of Texas."

Have had same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do not pass.

STUART, Chairman.

Committee Room,

Austin, Texas, Feb. 15, 1927.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred

H. B. No. 372, A bill to be entitled "An Act fixing in counties, having a population in excess of 150,000 inhabitants, and in which, there is no county attorney the compensation of and providing for the appointment of assistant district attorneys, investigators, stenographers and other employees and providing for their salaries and the manner of their payment, and providing for the purchase, operation and maintenance of automobiles, and repealing all laws and parts of laws in conflict herewith, and declaring an emergency."

Have had same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass.

WIRTZ, Chairman.

Committee Room,

Austin, Texas, Feb. 15, 1927.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred

S. B. No. 368, A bill to be entitled "An Act amending Article 4479 of the Revised Civil Statutes of 1925 so as to change the qualifications of members of boards of managers of county hospitals; providing for alternate appointments so that a portion of the members of such board will expire one year and a portion

the next year; and declaring an emergency."

Have had same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass.

WIRTZ, Chairman.

Committee Room,

Austin, Texas, Feb. 15, 1927.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred S. B. No. 318, A bill to be entitled "An Act to amend Article 6819 of the Revised Civil Statutes of Texas, of 1925, fixing the compensation of the reporter of the Court of Criminal Appeals, of Texas, and declaring an emergency."

Have had same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass.

WIRTZ, Chairman.

Committee Room,

Austin, Texas, Feb. 15, 1927.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred S. B. No. 371, A bill to be entitled "An Act amending Subdivision 2 of Article 7071 of the Revised Civil Statutes of 1925, so as to require certain reports of oil produced, which reports are now required to be made to the Comptroller, to be made also to the commissioners' court of the county in which the oil was produced; providing also that each such report shall contain in addition to the information and data now required by law, the amount of gas produced from each well or otherwise during the quarter next preceding and the average market value thereof during said quarter; also requiring such reports made on the first day of January to show the amount of oil and gas on hand on said first day of January by the person so making such report; and declaring an emergency."

Have had same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass.

WIRTZ, Chairman.

Committee Room,

Austin, Texas, Feb. 15, 1927.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred

S. B. No. 311, A bill to be entitled "An Act to repeal Sub-division 1, Article 3883, Chapter 1, Title 61, of the Revised Civil Statutes of 1925, and to amend Article 3900, Chapter 1, Title 61, of the Revised Civil Statutes of 1925, so as to provide that certain officers in counties having a population of twenty-five thousand, or less, inhabitants, according to the last preceding United States census, shall be exempt from the provisions of Article 3891, 3896 and 3897, Chapter 1, Title 61, of the Revised Civil Statutes of 1925; and declaring an emergency."

Have had same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass.

WIRTZ, Chairman.

Committee Room,

Austin, Texas, Feb. 15, 1927.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred S. B. No. 364, A bill to be entitled "An Act amending Article 1302 of the Revised Civil Statutes of 1925 so as to authorize the formation of private corporations for the purposes of acquiring, owning and colonizing land provided that no such corporation shall acquire or own more than 100,000 acres of land in this State; repealing any law or part of law in conflict herewith; and declaring an emergency."

Have had same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass.

WIRTZ, Chairman.

(Majority Report.)

Committee Room,

Austin, Texas, Feb. 15, 1927.

Hon. Barry Miller, President of the Senate.

Sir: We, a majority of your Committee on State Affairs, to whom was referred

S. B. No. 328, A bill to be entitled "An Act to amend Article 879 of the Penal Code of Texas 1925, so as to provide that the open season for wild quail in the North Zone shall be changed from the period of November 16th to the following January 1st, to the period of December 15th to the following February 1st."

Have had same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass with the following committee amendment:

Amend Senate Bill No. 328 by striking out the second and third paragraph of Article 879, relating to wild mourning doves and wild white wing doves and insert in lieu thereof the following:

"Wild mourning doves and wild white wing doves in the North Zone, December 15th to the following February 1st, both days included; in the South Zone, December 1st to the following January 16th, both days included."

WIRTZ, Chairman.

(Minority Report.)

Committee Room,

Austin, Texas, Feb. 15, 1927.

Hon. Barry Miller, President of the Senate.

Sir: I, a minority of your Committee on State Affairs, to whom was referred

S. B. No. 328, A bill to be entitled "An Act to amend Article 879 of the Penal Code of Texas 1925, so as to provide that the open season for wild quail in the North Zone shall be changed from the period of November 15th to the following January 1st, to the period of December 15th to the following February 1st."

Beg to differ with a majority of your Committee and report it back to the Senate with the recommendation that it do not pass.

WOOD.

Committee Room,

Austin, Texas, Feb. 16, 1927.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Criminal Jurisprudence, to whom was referred

H. B. No. 201, A bill to be entitled "An Act amending Article 941a of the Penal Code of the State of Texas as recodified and adopted at the Regular Session of the Thirty-ninth Legislature, 1925, relating to the catching of sucker, buffalo, carp and shad in certain counties, by adding to said Article the names of Bosque, Grayson, Cook, Denton, Coryell, Hamilton, Erath, Dallas and Hood Counties."

Have had same under consideration, and I am instructed to report it

back to the Senate with the recommendation that it do pass.

WOODWARD, Chairman.

Committee Room,

Austin, Texas, Feb. 16, 1927.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Criminal Jurisprudence, to whom was referred

H. B. No. 150, A bill to be entitled "An Act to amend Article 1036, Title 15, Chapter 2, of Code of Criminal Procedure of the State of Texas of 1925, allowing witness fees and mileage in all out county felony cases in the sum of four cents per mile for each mile traveled going to and from the court or grand jury and two dollars per day for each day of service and such witnesses in all cases who attend in obedience to any process issued by any grand jury or any court in this State other than county of their residence."

Have had same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass.

WOODWARD, Chairman.

Committee Room,

Austin, Texas, Feb. 16, 1927.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Criminal Jurisprudence, to whom was referred

S. B. No. 135, A bill to be entitled "An Act amending Article 333 of the Code of Criminal Procedure of the State of Texas, as recodified and adopted at the Regular Session of the Thirty-ninth Legislature 1925, relating to the appointment of jury commissioners to select grand jurors, providing for their compensation and prescribing their qualifications, so as to provide for the appointment of not less than three nor more than five in the discretion of the district judge."

Have had same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass.

WOODWARD, Chairman.

Proposed Amendments to S. B. No. 186.

Ordered printed in the Journal.

Amend Senate Bill No. 186 by striking out the caption and insert in lieu thereof the following:

A BILL

To Be Entitled

"An Act regulating primary elections and nominations and providing for a primary election system in this State; providing for a first and second choice vote in primary elections and eliminating the second primary; providing the method of voting in such primaries and regulating the ballot therein; providing other matters and things incidental to the main purpose of this Act; amending Articles 3102, 3106, 3109, 3110, 3118, 3124, 3125, 3126, 3127, and repealing Articles 3135, 3138, and 3140, of the Revised Civil Statutes of 1925; and declaring an emergency."

Amend Senate Bill No. 186 by striking out all after the enacting clause and insert in lieu thereof the following:

Section 1. That Article 3102 of the Revised Civil Statutes of Texas, 1925, be and the same is hereby amended so as to hereafter to read as follows:

Article 3102. The fourth Saturday in July, 1928, and every two years thereafter shall be primary election day, and primary elections to nominate candidates for general elections shall be held on no other day except when specially authorized. No person shall be declared the nominee of any political party at any primary election for any State or district office unless he has complied with every requirement of all laws applicable to primary and other elections and has received the vote at such primary elections requisite to be designated the choice of the majority of the voters for nomination for such office.

At all such general primary elections the form of the ballot shall be such as to enable the voter to express his first choice and his second choice for each nomination, in case there are more than one candidate for such nomination named on the ballot, and each voter shall express his first and second choice for each such nomination.

In all cases where there are only two candidates or less for a nomination named on the ballot, the candidate receiving the most first choice votes shall be declared the nominee.

In all cases where there are more than one candidate for a nomination, if any candidate shall receive a ma-

jority of the first choice votes, such candidate shall be declared the nominee without considering the second choice votes cast for such nomination; and if no candidate shall receive a majority of the first choice votes for such nomination, then one-half of the second choice votes cast for each candidate for such nomination shall be added to the first choice votes cast for such candidate, and the candidate who shall have received the largest number of first and second choice votes so added together shall be declared the choice of the majority and the nominee for such office.

Nominations of candidates to be voted for at any special election shall be made at a primary election at such time as the party executive committee shall determine, but no such committee shall ever have the power to make such nominations. All precincts in the same county and all counties in the same district shall vote on the same day. Nominations of party candidates for offices to be filled in a city or town shall be made not less than ten days prior to the city or town election at which they are to be chosen, in such manner as the party executive committee for such city or town shall direct, and all laws prescribing the method for conducting primary elections shall apply to them.

Section 2. That Article 3106 of the Revised Civil Statutes of Texas, 1925, be and the same is hereby amended so as hereafter to read as follows:

Article 3106. The county executive committee shall decide whether the nominations of county officers shall be by majority or by plurality vote, and, if by majority vote, the choice of the majority of the voters for any such nomination shall be ascertained in the manner prescribed in Article 3102, as amended by this Act. And in case the committee fails to so decide, then the nomination of all such officers shall be by a plurality of the first choice votes cast at such election.

Section 3. That Article 3109 of the Revised Civil Statutes of Texas, 1925, be and the same is hereby amended so as hereafter to read as follows:

Article 3109. The vote at all general primaries shall be by official ballot, which shall have printed at

the head the name of the party, and under such head the names of all candidates, those for each nomination being arranged in the order determined by the various committees as provided by law beneath the title of the office for which the nomination is sought.

At the right of the column containing the names of the candidates and immediately opposite said column there shall be printed thereon two blank columns headed respectively "First Choice" and "Second Choice," and the voter shall express his choice by making a cross mark in the column headed "First Choice" opposite the name of the candidate for whom he desires to vote as his first choice, and by making a cross mark in the column headed "Second Choice" opposite the name of the candidate for whom he desires to vote as his second choice, (in cases where there are more than one candidate for a nomination.)

The official ballot shall be printed in black ink upon white paper, and beneath the name of each candidate thereon for State and District Offices, there shall be printed the county of his residence. The official ballot shall be printed by the county committee in each county, which shall furnish to the presiding officer of the general primary for each voting precinct at least one and one-half times as many of such official ballots as there are poll taxes paid for such precinct, as shown by the tax collector's list. Where two or more candidates are to be nominated for the same office, to be voted for by the qualified voters of the same district, county or justice precinct, such candidates shall be voted for and nominations made separately, and all nominations shall be separately designated on the official ballots by numbering the same "1," "2," "3," etc., printing the word "No" and the designated number after the title of the office for office for which such nominations are to be made. Each candidate for such nomination shall designate in the announcement of his candidacy, and in his request to have his name placed on the official ballot, the number of the nomination for which he desires to become a candidate, and all candidates so requesting shall have their names printed beneath the title of the office and the number so designated. Each voter

shall vote for only one candidate for each such nomination; provided that each voter shall vote for his first and second choice candidates for each such nomination as provided by law.

Sec. 4. That Article 3110 of the Revised Statutes of Texas, 1925, be and the same is hereby amended so as to hereafter to read as follows:

Article 3110. No official ballot for primary election shall have on it any symbol or device or any printed matter, except a uniform primary test, reading as follows: "I am a (inserting name of political party or organization of which the voter is a member) and pledge myself to support the nominee of this primary;" and any ballot which shall not contain such printed test above the names of the candidates thereon, shall be void and shall not be counted.

Sec. 5. That Article 3118 of the Revised Civil Statutes of Texas, 1925, be and the same is hereby amended so as hereafter to read as follows:

Article 3118. There shall be for each political party required by this law to hold primary elections for nomination of its candidates, a county executive committee, to be composed of a county chairman, and one member from each election in such county; the committeeman from such election precinct shall be chairman of his election precinct, and the said county chairman shall be elected on the general primary election day; the county chairman by the qualified voters of the whole county, and the precinct chairman by the qualified voters of their respective election precincts. Said county and precinct chairman shall assume the duties of their respective offices immediately after the result of the election at which they are chosen shall have been lawfully declared. Said county chairman shall be ex-officio a member of the executive committee of all districts of which his county is a part, and the district committee thus formed shall elect its own chairman. Any vacancy in the office of chairman, county or precinct, or any member of such committee shall be filled by a majority vote of said executive. The list of election precinct chairmen and the county chairmen so elected, shall be certified by the county convention to the county clerk, along with the other nominees

of said party. If there are not requests filed for candidates for county and precinct chairman, a blank space shall be left on the ticket beneath the designation of such position.

Sec. 6. That Article 3124 of the Revised Civil Statutes of Texas, 1925, be and the same is hereby amended so as hereafter to read as follows:

Article 3124. All returns of precinct primary elections, properly signed and certified as correct by the judges and clerks thereof, showing the number of first choice and second choice votes received by each candidate for a nomination named on the ballot, shall be sealed and immediately delivered, after such primary election, to the chairman of the county executive committee of the party. Such party chairman shall give notice to the members of the county executive committee to assemble at the county seat of the county on the first Saturday after the primary election, and said returns shall then be opened under the direction of such executive committee and canvassed by them.

Sec. 7. That Article 3125 of the Revised Civil Statutes of Texas, 1925, be and the same is hereby amended so as hereafter to read as follows:

Article 3125. Each county executive committee shall meet the first Saturday after each primary election to canvass the result of such election. If majority nominations for county and precinct offices have not been ordered by the county executive committee, the candidate who shall be found to have received the largest number of first choice votes shall be declared the nominee for each county and precinct office. If majority nominations for county and precinct offices have been ordered by the county executive committee, the candidate for each such nomination receiving a majority of the first choice votes, or, if no candidate shall have received a majority of the first choice votes, then the candidate receiving the largest number of the first and one-half of the second choice votes added together, for such nomination for county and precinct offices shall be declared the choice of the majority and the nominee. The chairman and secretary of the county executive committee shall prepare a list of the nominees so declared and certify to the same and deliver it to the county

clerk of the county, to be placed on the official ballot as the party's candidates for county and precinct offices.

Sec. 8. That Article 3126 of the Revised Civil Statutes of Texas, 1925, be and the same is hereby amended so as hereafter to read as follows:

Article 3126. If in determining the result of a primary election for any nomination for any office it shall appear that two candidates have received an equal number of first choice votes, or of first and second choice votes added together, as the case may be, and that it is necessary to break such a tie in order to determine the result, in such event the chairman of the county executive committee as to county and precinct offices, and the chairman of the State Executive Committee as to State and District Offices, shall, in the presence of the executive committee, cast lots for the nomination in such manner as the executive committee may direct and in the presence of rival candidates, if they desire to be present, and declare and certify the name of that candidate who is successful by lot.

Sec. 9. That Article 3127 of the Revised Civil States of Texas, 1925, be and the same is hereby amended so as hereafter to read as follows:

Article 3127. The chairman of the executive committee in each county, shall, as soon as the vote cast in the primary election has been counted and canvassed as herein provided for, prepare a tabulated statement of the votes cast in his county, showing the aggregate number of the first and second choice votes cast for each candidate for each nomination for a State, District, County or Precinct office, and of that cast for county chairman, as shown by the canvass made by the county executive committee, and shall immediately mail such statement, as to all State and district offices, including U. S. Senator and Congressman in a sealed envelope, by registered letter, to the chairman of the State Executive Committee at its next meeting, to be held as provided by law. As to candidates for all State and district offices, including United States Senator and Congressmen, the chairman of the county executive committee and its secretary shall certify to the number of first choice and second choice votes cast for each of such candidates.

and cause the same to be published in some newspaper of the county, if there be one.

Sec. 10. That Article 3137 of the Revised Civil Statutes of Texas, 1925, be and the same is hereby amended so as hereafter to read as follows:

Article 3137. On the third Monday after the fourth Saturday in July, 1928, and each two years thereafter the State Executive Committee shall meet at a place selected as its meeting held on the second Monday in June preceding and shall open and canvass the returns of the primary election held on the fourth Saturday in July as to candidates for all State and districts offices, including U. S. Senator and Congressman, by the various county executive committee chairmen and secretaries, and shall prepare a tabulated statement showing the number of first choice and second choice votes received by each such candidate in each county, which statement shall be approved by the State committee and certified by its chairman and secretary.

For any State or district office, including U. S. Senator and Congressman for which there were only two candidates or less named on the official ballot the candidates receiving the largest number of first choice votes shall be declared the nominee.

If such returns show that for any nomination for a State or district office, including U. S. Senator and Congressman for which more than two candidates were named on the official ballot, no candidate has received a majority of all the first choice votes cast for all candidates for such office, such committee shall add together the first choice votes and one-half of the second choice votes received by each candidate for such nomination, as shown by such returns, and in that event any candidate found to have received the largest number of first choice votes and second choice votes added together shall be declared the choice of the majority and the nominee. Such State and district nominees shall thereupon be certified by the chairman of the State Executive Committee to the Secretary of State, who shall certify them to the county clerks of the various counties affected thereby.

Sec. 11. That Articles 3135, 3138

and 3140 of the Revised Civil Statutes of Texas, 1925, be and the same are hereby repealed.

Sec. 12. The fact that this Act provides for a better system and method of selecting candidates in primary elections in this State, and the Act should take effect as soon as possible, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each House be suspended, and said rule is hereby suspended, and that this Act shall take effect and be in force from and after its passage, and it is so enacted.

TWENTY-FOURTH DAY.

Senate Chamber,
Austin, Texas.

Thursday, February 17, 1927.

The Senate met at 10 o'clock a. m., pursuant to adjournment, and was called to order by Lieutenant Governor Barry Miller.

The roll was called, a quorum being present, the following Senators answering to their names:

Bailey.	Parr.
Berkeley.	Pollard.
Bledsoe.	Price.
Bowers.	Real.
Fairchild.	Reid.
Floyd.	Russek.
Greer.	Smith.
Hall.	Stuart.
Hardin.	Triplett.
Holbrook.	Ward.
Lewis.	Westbrook.
Love.	Wirtz.
McFarlane.	Witt.
Miller.	Wood.
Moore.	Woodward.
Neal.	

Prayer by the Chaplain.

Pending the reading of the Journal of yesterday, the same was dispensed with on motion of Senator Woodward.

Petitions and Memorials.

(See Appendix.)

Committee Reports.

(See Appendix.)

Bills and Resolutions.

By Senator Love:

S. B. No. 403, A bill to be entitled "An Act providing that where any citation or notice mentioned in Sub-